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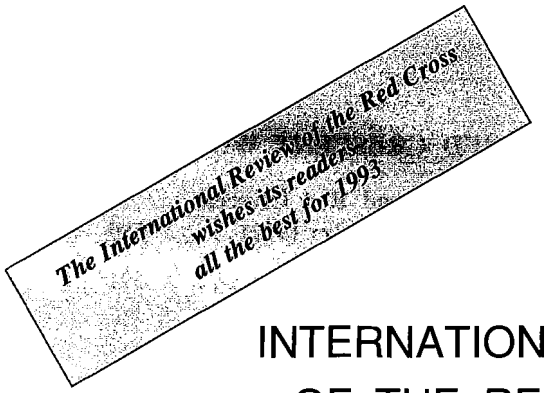

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International humanitarian law and the protection of the environment in time of armed conflict

by Philippe Antoine

Introduction

The condition of our planet today is, to say the least, a cause for great concern. As recently stated by Ms. Gro Harlem Brundtland, Prime Minister of Norway and Chairman of the World Commission on Environment and Development: "We are living in an historic transitional period in which awareness of the conflict between human activities and environmental constraints is literally exploding".[1] A decisive battle is now under way to preserve a truly endangered planet from the threat of extinction.

Events such as the Chernobyl nuclear power accident, the gradual destruction of the world's forests, widespread water pollution, global warming, the thinning of the ozone layer and the destruction of humanity's genetic heritage have underscored the need to promote, support and if necessary direct efforts to protect the environment at local, regional and global levels.

In this article we shall primarily examine the existing provisions of international humanitarian law (IHL) for the protection of the environment.

First of all, we shall look at the interrelationship between the protection of the environment and IHL within the framework of public international law. Then we shall turn to the various existing provisions of IHL for the protection of the environment and highlight, through a practical example, the shortcomings of the present body of law.

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[1] Brundtland, G.H., "Environment: a decisive battle", *Forum*, Council of Europe, 2/89, p. 16.

Lastly we shall put forward various suggestions as to the future development of environmental law and outline a specific proposal.

I. Protection of the environment under public international law

1. The fundamental principles of international environmental law

What are the rules of international law governing the lawfulness or unlawfulness of damage caused to the environment in time of armed conflict?

The following two basic principles of international environmental law provide the answer to this question:

— *The obligation for States to avoid causing environmental damage beyond their borders*

This principle has been affirmed in numerous court decisions and arbitral awards, various regional and international conventions[2] and other international texts including, for example, the well-known Prin-

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[2] Bothe, M., Cassese, A., Kalshoven, F., Kiss, A., Salmon, J., Simmonds, K., *La protection de l'environnement en temps de conflit armé*, Commission of European Communities, Int. Doc., SJ/110/85, p. 17; Kiss, A., Shelton, D., *International Environmental Law, Transnational Publishers*, Graham and Trotman, New York, London, 1991;

— *Court decisions and arbitral awards:*

Sentence of Max Huber of 4 April 1928 in the Palmas Island case, in *Recueil des sentences arbitrales (Report of international arbitral awards)*, vol. II, p. 831; arbitral decision of 11 March 1941 in the Trail Foundry case, *ibid.*, vol. III, p. 1906; judgment of 9 April 1949 in the Corfu Channel case, International Court of Justice (ICJ), in *Reports of judgments*, 1949, Sijthoff, Leyden, p. 22.

— *International conventions:*

Art. 194 (2) of the Convention on the Law of the Sea (Montego Bay, 10 December 1982), in *International Legal Material (ILM)*, vol. XXI, 1982-II, p. 1308; Preamble to the Convention on Long-Range Transboundary Air Pollution (Geneva, 13 November 1979), in ILM, vol. XVIII, 1979-11, p. 1442; Art. 1 of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London, 29 December 1972), in Kiss, A., ed., *Selected Multilateral Treaties in the Field of the Environment*, Nairobi, UNEP, 1983, p. 283.

— *Regional conventions:*

Art. 3 of the Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki, 22 March 1974), in Kiss, A., *Selected Multilateral Treaties ..., op.cit.*, p. 405; Art. 4 of the Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona, 16 February 1976), *ibid.*, p. 448; Art. 3 (a) of the Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment from Pollution (Kuwait, 24 April 1978), *ibid.*, p. 486.

ciple 21 of the Stockholm Declaration.[3] It has also been applied by national legal authorities[4] and its customary nature is now widely accepted.

This is particularly interesting as, under the general rules of international responsibility, the existence of an armed conflict does not release the parties to the conflict from the obligation in question.[5]

— *The obligation for States to respect the environment in general*

The second principle has a broader field of application than the first since it lays down the obligation to respect the environment "in general", whatever legal system governs it, that of the signatory State or another State. This rule applies to all areas considered part of humanity's common heritage and is included in numerous international treaties and non-treaty texts, such as the well-known World Charter for Nature of 28 October 1982. Principle 5 of the Charter proclaims that "nature shall be secured against degradation caused by warfare or other hostile activities" and Principle 20 stipulates that "military activities damaging to nature shall be avoided".[6]

At the national level, both the practice of States and various consti-

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[3] UN Conference on the Human Environment (Stockholm, 5-16 June 1972), in *Revue générale de droit international public*, 1973, pp. 354 ff.

[4] Administrative Tribunal of Strasbourg, North Holland Province v. State Ministry of the Environment, 27 July 1983, *Revue juridique de l'environnement*, 1983, p. 343; District Court of Rotterdam, Handelswerkerij G.T. Bier *et al.* v. Mines de Potasse d'Alsace, 16 December 1983, in Bothe, M., *et al., op. cit.*, p. 24.

[5] Bothe, M., *et al., op.cit.*, p. 25.

[6] — *International treaties and conventions:*

Art. 2 of the Convention on Long-Range Transboundary Air Pollution (Geneva, 13 November 1979), in Kiss, A., *Selected Multilateral Treaties..., op.cit.*, p. 519; Art. IX of the Treaty on Outer Space (27 January 1967), *International Legal Material (ILM)*, vol. VI, 1967, p. 388; Art. 4 of the Convention for the Protection of the World Cultural and Natural Heritage (UNESCO, Paris, 23 November 1972), in Kiss, A., *Selected Multilateral Treaties ..., op.cit.*, p. 276; Preamble of the Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 23 June 1979), *ibid.*, p. 500; Art. VII of the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (5 December 1979), *ILM*, vol. XVIII, 1979-II, p. 1436; Art. 145 of the Convention on the Law of the Sea (Montego Bay, 10 December 1982) concerning the "zone", *ILM*, vol. XXI, 1982-II, p. 1294.

— *Non-treaty texts:*

Principles 2, 3, 5, 6 and 7 of the Declaration of the UN Conference on the Human Environment (Stockholm, 5-16 June 1972), *Revue générale de droit international public*, p. 352 ff.

tutional texts and other laws[7] reaffirm the duty to protect the environment.

To sum up, while there is a customary practice in this area, IHL in its present state of development does not yet categorically affirm the existence of a general obligation for States to respect and protect the environment. Nevertheless the need to do so has been recognized by the international community.

2) The environment, human rights and IHL

The protection of the environment is an issue that has also been raised in the framework of international human rights law. Indeed, the right to life, which has been recognized since the 1972 Stockholm Declaration and enshrined in numerous national constitutions for more than 15 years, entails the right to the protection of the environment. The "right to a healthy environment" is in fact the most highly developed of the rights known as solidarity rights, which are part of the "third generation" of human rights.

According to a Council of Europe seminar on the environment and human rights held in Strasbourg in 1979, no one is entitled to destroy life slowly by contaminating the sources and basic necessities of life — water, air, space, fauna and flora — or to tamper with any of the elements that contribute to our present and, *a fortiori*, our future well-being and happiness. Although the environment is not everything, it is everywhere and conditions everything, and the definition and proclamation of, and respect for humanity's rights and duties in relation to the environment can no longer be postponed.[8]

The adoption in 1977 of the Protocols additional to the 1949 Geneva Conventions marked a turning point in the history of environmental protection in time of armed conflict, since the concept was first introduced into IHL in Article 35, para. 3, and Article 55 of Additional Protocol I.

The drafting of the 1977 Protocols was prompted by the need to reaffirm and strengthen the protection afforded civilians, combatants and prisoners of war in the Geneva Conventions, in particular by prohibiting certain methods and means of warfare. This amounted to

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[7] Kiss, A., "Un aspect du droit de vivre: le droit à l'environnement", in *Essays on the concept of a "right to live" (in memory of Yougindra Khushalani)*, Bruyland, Brussels, 1988, p. 66.

[8] *Revue juridique de l'environnement*, 1978, p. 423.

reaffirming and developing the body of rules known as the Law of the Hague.[9]

Protocol I provides the following set of basic rules in Part III, Section I, Article 35, under the heading "Methods and Means of Warfare":

"1. In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.

2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.

3. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment".

The fact that paragraph 3 is included in an article on basic rules implies that the protection of the environment in time of international armed conflict should be given priority in the conduct of hostilities.

3. Humanitarian law and disarmament law

One of the most important texts relative to disarmament law is the Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques (ENMOD Convention adopted by the United Nations on 10 December 1976), which entered into force on 5 October 1978. The Convention stipulates, in Article 1, that:

"1. Each State Party to this Convention undertakes not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party.

2. Each State Party to this Convention undertakes not to assist, encourage or induce any State, group of States or international organization to engage in activities contrary to the provisions of paragraph 1 of this article".

The ENMOD Convention also provides, in Article 5, that the States party shall consult one another and cooperate in solving any

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[9] Bretton, P., "Le problème des 'méthodes et moyens de guerre ou de combat' dans les Protocoles additionnels aux Conventions de Genève du 12 août 1949", *Revue générale de droit international public*, vol. 82, 1978, p. 34; Sandoz, Y., "Unlawful damage in armed conflicts and redress under international humanitarian law", *IRRC*, No. 228, May-June 1982, p. 144.

problems which may arise in relation to the objectives of, or in the application of the provisions of the Convention. Such consultation and cooperation may be undertaken within the framework of the United Nations and may include the services of appropriate international organizations (although none is specifically mentioned in the Convention). In addition, any State party to the Convention may lodge a complaint with an *ad hoc* Consultative Committee of Experts or directly with the United Nations Security Council.

The ENMOD Convention has been the object of much criticism. In particular Article 3, which authorizes the use of environmental modification techniques for peaceful purposes, is seen as vague. This leaves open the possibility that prohibited uses of such techniques may be substituted for peaceful ones. However, the Convention does have the merit of reflecting international concern for environmental protection.

A growing awareness of the deterioration of our natural environment began to emerge in the early 1970s. Concern about the problem led to the drafting of Article 35, para. 3, and Article 55 of Additional Protocol I, which were intended to prevent armed conflicts from leading to environmental damage.

Conversely, the deterioration of the environment may itself be the source of conflicts which further damage the biosphere.

While environmental stress is seldom the sole cause of internal or international conflicts, it nevertheless can be "an important part of the web of causality associated with any conflict and can in some cases be catalytic".[10]

The problem of rapid erosion, for example, has led to many conflicts. Excessive cultivation on the high plateaux of Ethiopia and the severe erosion which ensued were major causes of the drought and famine which ravaged the country in the early 1970s. A report written at the request of the Ethiopian Relief and Rehabilitation Commission found in 1975 that "the primary cause of the famine was not drought of unprecedented severity, but a combination of long-continued bad land use and steadily increased human and stock populations over decades".[11]

Another problem is that of "environmental refugees". This problem became particularly acute in Africa in 1984-85 when the massive emigration of many of the continent's 35 million famine victims exacerbated existing tension among certain States. The current conflicts in

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[10] World Commission on Environment and Development, *Our Common Future* (Brundtland Report), Oxford University Press, Oxford, New York, 1987, p. 291.

[11] *Ibidem.*

Ethiopia, Sudan and Somalia have also generated large population movements. One of the world's most serious cases of erosion outside Africa occurred in Haiti, giving rise to the exodus of one sixth of the country's population. In 1991 El Salvador, which has one of Central America's most serious erosion problems, and Guatemala together harboured more than one million refugees.

Although it is not always possible to establish a correlation between the spread of famine and mounting tension among States over environmental problems, and although such a correlation may vary in degree, the fact that it exists is undeniable.

This correlation corresponds to the following situations:

— armed conflict that is the direct cause of environmental damage;

— environmental damage that leads to tension or armed conflict, which itself exacerbates the damage.

The protection of the environment is therefore closely tied to IHL both prior to, during and after armed conflicts.

II. Legal provisions

There are two types of legal protection for the natural environment. The first is direct protection, which is afforded by provisions specifically intended to protect the environment. The second is indirect protection, which is a potential effect of various provisions not specifically aimed at protecting the environment.

1. Direct protection

Direct protection of the natural environment is guaranteed by Article 55 and Article 35, para. 3, of Protocol I. This type of protection was first proposed on 21 March 1972 at the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, which was organized by the ICRC. Among the texts proposed were the following draft articles:

"It is forbidden to use weapons, projectiles or other means and methods which upset the balance of the natural living and environmental conditions".

"It is forbidden to use means and methods which destroy the natural human environmental conditions".[12]

The International Red Cross and Red Crescent Movement also began to address this issue at about the same time, for example at the 22nd International Conference of the Red Cross, where it was stated that:

"With regard to the property essential for the survival of the civilian population, emphasis was laid on the importance of protecting the natural environment".[13]

Although the proposal put forward by the ICRC at the Diplomatic Conference of 1974-77 (CDDH) did not contain any provisions specifically aimed at protecting the environment, many of its stipulations implied respect for natural resources, in particular objects indispensable to the survival of the civilian population. Several other delegations to the Conference also deemed it necessary to draw attention to the environment and made proposals to that effect. Committee III established an informal working group entitled "Biotope", which was responsible for assessing various environment-related amendments proposed by the States.

There were two distinct tendencies among these amendments. The first is exemplified by draft article 49 *bis*, entitled "Protection of the natural environment", which was submitted to the CDDH on 19 March 1974 by the Australian delegation.[14] It reads as follows:

"1. Without prejudice to the rights of a High Contracting Party in its own territory, it is forbidden to despoil the natural environment as a technique of warfare.

2. Attacks against the natural environment by way of reprisal are prohibited.

3. A breach of this Article shall constitute a grave breach of the present Protocol".[15]

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[12] *Report on the Work of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts*, second session, ICRC, Geneva, 1972, CE/COM III/C5, vol. II (Annexes), p. 52.

[13] 22nd International Conference of the Red Cross (Tehran, 1973), Commission on International Humanitarian Law, Doc. P/7/b, p. 8.

[14] According to P. Bretton, *op.cit.*, p. 59, this was not unrelated to the problem of French nuclear testing which was taking place at the time in the Pacific.

[15] *Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Geneva (1974-1977)*, Federal Political Department, Bern, 1978, CDDH/III/60, vol. III, p. 220.

The immediate aim of the draft article was to guarantee specific protection of the natural environment, among other civilian property, and to prohibit attacks by way of reprisal. Its ultimate aim, however, was to increase protection of the civilian population against the effects of hostilities. This article, which was renumbered 48 *bis* and adopted by consensus, was the basis for Article 55 of Additional Protocol I.

The second tendency can be seen in a joint proposal put forward by the delegations of three socialist States, namely, Czechoslovakia, Hungary and the German Democratic Republic. This proposal, instead of focusing on the survival and well-being of the civilian population, aimed to guarantee the protection of the environment by restricting the methods and means of warfare used. The second tendency, which was directly prompted by the magnitude of the environmental damage caused by the United States during the Vietnam war, led to the adoption of the third paragraph of Article 35 of Protocol I, entitled "Basic rules".[16]

As for Additional Protocol II relating to non-international armed conflicts, a provision similar to Article 55 of Protocol I (draft Article 48 *bis*) was adopted by Committee III by 49 to 4 votes with 7 abstentions, but was ultimately rejected in plenary session.

One of the most delicate issues was that of defining the critical threshold for severe environmental damage.

Although Article 35, para. 3, and Article 55, para. 1, of Protocol I have different aims, the coherence of the prohibition they lay down is ensured by the common use of the criterium of "widespread, long-term and severe damage".

It is interesting to compare this wording with that of Article I(1) of the 1976 ENMOD Convention, which mentions "environmental modification techniques having widespread, long-lasting *or* severe effects".

The use of the different conjunctions (and/or) in the two texts implies that while Protocol I prohibits only methods or means of warfare which simultaneously transgress all three of the conditions mentioned, the ENMOD Convention prohibits all those which transgress any one of the said conditions. The Convention therefore has a broader application.

In addition the Protocol focuses on protecting the natural environment regardless of the weapons used, whereas the Convention aims specifically to prevent the hostile use of environmental modification

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[16] *Ibid*, CDDH/III/SR 13-40 of 15 December 1975, no. 10.

techniques (for example, with respect to tidal waves, hurricanes or earthquakes).[17]

It is also important to note that the prohibition in the Protocol applies in time of armed conflict only, whereas the Convention applies both in time of armed conflict and in time of peace.

Furthermore, the two treaties ascribe different meanings to various terms. According to the interpretative agreement of the ENMOD Convention, the term "widespread" should be understood as encompassing an area on the scale of several hundred square kilometres, the term "long-lasting" as referring to a period of months, or approximately a season, and the term "severe" as involving serious or significant disruption or harm to human life, natural economic resources or other assets.[18]

It is much more difficult to give an exact interpretation of the terms used in the Protocol, since its provisions protect the natural environment as such and are therefore less specific (Committee III and its "Biotope" group did very little to clear up this point). However, it is generally understood that "widespread" implies an area of less than several hundred square kilometres, "long-term" refers to ten years or more and "severe" involves "damage as would be likely to prejudice, over a long term, the continued survival of the civilian population or would risk causing it major health problems".[19]

The two texts should not be seen as redundant, but rather as distinct and complementary, since one deals with geophysical warfare and the other with environmental warfare. This fact was pointed out by several delegations (Argentina, Egypt, Mexico, Venezuela) in their statements following the adoption by the CDDH of various articles on the environment.

IHL is quite different in this respect from disarmament law.

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[17] *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, Sandoz, Y., Swinarski, C., Zimmermann, B., eds., ICRC, Martinus Nijhoff Publishers, Geneva, 1987, pp. 414-415, paras. 1450-1451, and pp. 416-417, para. 1454.

[18] Arrassen, M., *Conduite des hostilités — droit des conflits armés et désarmement* (1983 thesis), Bruylant, Brussels, 1986, p. 297; *Commentary on the Additional Protocols, op.cit.*, p. 417, note 117.

[19] Arrassen, M., *op.cit.*, pp. 294-295; *Commentary on the Additional Protocols, op.cit.*, pp. 416-417, para. 1454.

2. Indirect protection

a) Additional Protocol I

Additional Protocol I contains a series of provisions which, although they do not aim primarily to prevent specific attacks against the environment, nevertheless provide many forms of indirect protection in this respect.

Article 51, for example, prohibits indiscriminate attacks (paras. 4 and 5), attacks which "employ a method or means of combat the effects of which cannot be limited as required by this Protocol" (para 4 (c)) and attacks by bombardment which treat as a single military objective a number of clearly separated and distinct military objectives (para. 5 (a)). It also affirms the principle of proportionality (para. 5 (b)).

Article 52, which deals with the general protection of civilian objects, limits attacks strictly to military objectives (paras. 1 and 2).

Article 54 protects objects indispensable to the survival of the civilian population, "such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works" (para. 2).

Article 56 protects works and installations containing dangerous forces, "namely dams, dykes and nuclear electrical generating stations" (para. 1).

The adoption of the latter provision was prompted by the accusation that the Americans had attacked dykes during the Vietnam war to induce catastrophic flooding.

Article 57 lists a number of precautions which must be taken with respect to attacks and their planning.

Article 58 sets forth various precautions which the belligerents must take with respect to their own territory to ensure the protection of, among other things, civilian objects.

b) Additional Protocol II

Numerous provisions similar to those contained in Protocol I were put forward by Committee III but later discarded in plenary session. The desire for simplification which underlay the drafting of Protocol II explains why Article 14 (Protection of objects indispensable to the survival of the civilian population) and Article 15 (Protection of works and installations containing dangerous forces) are the only provisions which afford indirect protection of the environment.

c) *The Convention of 10 October 1980 on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its three protocols*

Additional Protocols I and II of 1977 prohibit the indiscriminate use of weapons, but not weapons themselves, and do not specify to which weapons the prohibition applies.

This problem prompted the ICRC to organize two conferences for government experts, one in Lucerne in 1974 and the other in Lugano in 1976. In addition the CDDH recommended, in its Resolution 22, that a conference of government experts be convened no later than 1979. In follow-up to this recommendation conferences were held in September 1979 and September 1980. They led to the adoption on 10 October 1980 of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its three protocols: Protocol I on non-detectable fragments, Protocol II on mines, booby-traps and other devices and Protocol III on incendiary weapons.

With respect to the environmental damage caused by various means and methods of warfare, it is regrettable that the 1980 Convention is silent on the subject of explosive munitions. The large-scale environmental damage caused by the intensive and widespread use of explosive munitions in Vietnam provided ample proof of the need to address this problem.[20]

Protocol I on non-detectable fragments is of little relevance to the problem of weapons-induced environmental damage.

Protocol II on mines, booby-traps and other devices deals with weapons that were used on a massive scale during the Second World War, the Indochina wars, the Arab-Israeli wars and more recently in Afghanistan.

While such weapons are not of a nature to cause widespread, long-lasting and severe damage to the natural environment, they can nevertheless be harmful to it in many ways. In addition to causing various accidents which kill or maim people and livestock, they can hamper the resumption of agricultural and other production and mar the landscape by blasting craters in the ground and scattering the remains of

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[20] "A total of over 14 million tonnes of munitions was directed against the whole of Indo-China by the USA", Stockholm International Peace Research Institute, *World Armaments and Disarmament: SIPRI Yearbook 1978*, Taylor and Francis Ltd., London, 1978, p. 44, quoted in Arrassen, *op.cit.*, p. 281, note 169.

destroyed vehicles, barbed wire and other war refuse over wide areas.

Protocol II plays an important role in that it deals with the use of mines and booby-traps (Articles 3 to 6), the recording and publication of the location of minefields, mines and booby-traps (Article 7), the protection of United Nations forces and missions from the effects of minefields, mines and booby-traps (Article 8) and international co-operation in the removal of minefields, mines and booby-traps (Article 9).

d) Protocol III on incendiary weapons

Protocol III on incendiary weapons is of particular interest. It has been estimated that over 100,000 tonnes of napalm were used in Vietnam between the beginning of the hostilities and March 1968 as part of a strategy of devastation carried out by the American armed forces. This strategy included defoliation of forests and plantations, destruction of rice paddies, incendiary bombardments and the razing of entire areas by fire and bulldozers operated by ground troops.

Although tens of thousands of square kilometres of vegetation and crops were devastated, this environmental warfare nevertheless fell short of military expectations since the natural humidity of the climate prevented fires from spreading easily.

The conclusion of a 1973 United Nations report on incendiary weapons states, with respect to the destruction of the natural environment: "Although there is a lack of knowledge of the effects of widespread fire in these circumstances, such attempts may lead to irreversible ecological changes having grave long-term consequences out of all proportion to the effects originally sought. This menace, though largely unpredictable in its gravity, is reason for expressing alarm concerning the massive employment of incendiaries against the rural environment".[21]

It should be noted in this respect that Protocol III, although it consists of only two articles (one on definitions and the other on the protection of civilians and civilian objects), plays an important role by stipulating that "it is prohibited in all circumstances to make the civilian population as such, individual civilians or civilian objects the object of attack by incendiary weapons" (Art. 2 (1)) and thereby affirming the provisions of Articles 51 and 52 of Additional Protocol I.

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[21] *Napalm and other incendiary weapons and all aspects of their possible use*, Report of the Secretary-General, United Nations, New York, 1973, p. 55, para. 189.

In addition the Preamble to the 1980 Convention reiterates word for word Article 35, para. 3 of Additional Protocol I, recalling that "it is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment".

II. Future developments

1. Shortcomings in the protection mechanisms

Do the existing legislative provisions afford effective and satisfactory protection for the natural environment in the event of armed conflict?

Some authors, such as Géza Herczegh, consider that "all forms of environmental warfare have been banned".[22] There is no doubt that the introduction of the 1977 provisions constituted a step forward for IHL and addressed a major contemporary concern for the need to preserve the planet and ensure the future of all its inhabitants.

However several recent conflicts, such as the Iran-Iraq war and the Gulf war, to mention but two, have clearly demonstrated that the existing provisions for the protection of the environment suffer, in terms of their practical application, from various shortcomings.

To take the example of the Iran-Iraq war, no fewer than 447 oil tankers were attacked in the Persian Gulf between 1 May 1980 and 31 December 1987, and in 1984 alone 2,035,000 tonnes of oil were spilled into the sea. None of either country's oil-producing facilities was spared (such as Abadan, Khorramshahr, Tabriz, Bandar Khomeini and Kharg Island in Iran, and Basrah, Kirkuk, Dura, Khanaqin and Faw in Iraq).

The two belligerent States can therefore reasonably be considered to have caused widespread, long-term and severe damage to the environment.[23]

At the time neither Iran nor Iraq had ratified Protocol I, whereas

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[22] Herczegh, G., "La protection de l'environnement naturel et le droit humanitaire", in *Studies and essays on international humanitarian law and Red Cross principles in honour of Jean Pictet*, Swinarski, C., ed., ICRC, Martinus Nijhoff Publishers, Geneva, The Hague, 1984, p. 732.

[23] David, E., "La guerre du Golfe et le droit international", *Belgian Review of International Law*, 1987-I, p. 164, no. 17.

all the other Persian Gulf States, which suffered as third parties from the damage, were party to the Protocol.[24]

In addition the International Fact-Finding Commission provided for under Article 90 of Protocol I had not yet been constituted.[25]

With respect to compensation for war damages, Article 91 of Protocol I stipulates: "A Party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces". Unfortunately this important article contains no provisions as to the practical application of the principle it states.

Neither IHL nor international environmental law deal effectively with the problem of compensation since the aim of the former is to "regulate hostilities in order to attenuate hardship"[26] and that of the latter is to prevent damage.

Consequently, and in view of these many shortcomings, Yves Sandoz, ICRC Director of Principles, Law and Relations with the Movement, stated that "if we look forward to further progress, we shall have to seek it through a broader recognition of the applicability of the essential standards of IHL from the moment that armed hostilities begin".[27]

2. Solutions

If this situation is to be improved, two major characteristics of IHL must be taken into account: first of all, the fact that "the whole of this law depends upon the good faith of the parties in conflict, and on the common interest in applying humanitarian standards which are of

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[24] United Arab Emirates (9 March 1983), Kuwait (17 January 1985), Bahrain (30 October 1986), Saudi Arabia (21 August 1987) and Qatar (5 April 1988), *IRRC*, No. 280, January-February 1991, pp. 78 ff.

[25] See Ashley Roach, J., "The International Fact-Finding Commission — Article 90 of Protocol I additional to the 1949 Geneva Conventions", *IRRC*, No. 281, March-April 1991, pp. 167-189.

[26] Pictet, J., "International Humanitarian Law: definition" in *International Dimensions of Humanitarian Law*, Henry Dunant Institute, UNESCO, Martinus Nijhoff Publishers, Dordrecht, Boston and London, 1988, p. xix.

[27] Sandoz, Y., *op.cit.*, p. 153. Regarding the legal instruments which exist outside of the framework of international humanitarian law and apply to the Iran-Iraq war, see David, E., *op.cit.*, p. 165, concerning a 1983-1984 report of experts on the subject, the Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment from Pollution (24 April 1978) and the attitude adopted by the UN Security Council in its resolution 540.

benefit to all the victims";[28] and secondly, the fact that over-regulation of IHL tends to be counter-productive since specific rules are narrower in scope than general ones and their introduction thus tends to restrict the applicability of general prohibitions to precise cases.[29]

The first characteristic, namely dependence on the good faith of the parties, is unavoidable. The second points to the danger inherent in drafting a convention aimed specifically at the protection of the natural environment in wartime, along the lines of the Hague Protocol of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict.

The environmental damage wreaked during the Iran-Iraq war was the subject of various discussions within the European Parliament. During one of these, Karl-Heinz Narjes, a member of the Commission of European Communities, proposed convening a meeting of experts in environmental law and IHL to investigate ways of heightening the effectiveness of the existing rules.

A first meeting was organized in Brussels in September 1983 and three subsequent meetings were held by the end of 1984. The experts concluded that international cooperation was of paramount importance and must imperatively be reaffirmed and developed.

Although they defined various tasks that needed to be accomplished, the experts resisted the temptation to propose setting up yet another specialized international organization and pointed instead to various existing institutions capable of carrying out the tasks.

Following their example, we would recommend wider and more effective implementation of the existing legal instruments rather than the creation of additional rules.

Let us now turn to our proposal.

3. Demilitarized nature reserves

Ideally, the environment should receive total and unconditional protection. However, this will not be the case until there is a truly universal awareness of the value of our environmental heritage. At present, not even the right to life enjoys worldwide respect. As a result, thousands of people die each day of hunger, cold and illness. In

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[28] Sandoz, Y., *op.cit.*, p. 154; Herczegh, G., *op.cit.*, p. 733.

[29] David, E., "Evolution du droit humanitaire en un droit du moindre mal", in *Le droit international humanitaire, Problèmes actuels et perspectives d'avenir (colloquium, 13 and 14 December 1985), Les cahiers du droit public*, Université de Clermont 1, ed., Centre de recherches et d'études de droit humanitaire et des droits de l'homme, 1987, pp. 31 ff.

these circumstances it makes little sense to prohibit, for example, the cutting down of trees by people living in the Himalayas in northern India. Nevertheless, to strengthen the protection of existing nature reserves would have a profound impact on the future by enabling us to leave to coming generations a legacy consisting of special areas in which the natural environment, the biotope and the biocenosis are at least as structurally rich as those we inherited from our forefathers. In other words, these protected nature reserves would be true ecological sanctuaries which everyone would be required to respect as a form of minimum protection in all circumstances, including of course in the event of armed conflict.

It should be mentioned here that Committee III submitted to the CDDH a draft article providing for the protection of nature reserves (Article 48 *ter*),[30] but the article was sent back to the working group and was unfortunately not adopted.

Our proposal, along the lines suggested by Alexandre Kiss, is that nature reserves should be demilitarized within the meaning of Article 60 of Protocol I of 1977.[31] Not only would this provide effective protection for the reserves, but it would do so under an existing rule.

Moreover, the violation of demilitarized zones is listed in Article 85, para. 3(d) of Protocol I and thus clearly constitutes a grave breach. Is it too much to hope that all nature reserves will one day be demilitarized as Antarctica has been?

Conclusion

The protection of the natural environment raises enormous problems which have ramifications in every branch of international law, including IHL.

It is also a major concern within the field of IHL, as is clearly demonstrated by the existence of numerous treaties on the protection of the environment in the event of armed conflict.

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[30] "*Article 48 ter*: Publicly recognized nature reserves with adequate markings and boundaries declared as such to the adversary shall be protected and respected except when such reserves are used specifically for military purposes", *Commentary on the Additional Protocols, op.cit.*, p. 664, para. 2138.

[31] Kiss, A., "Les Protocoles additionnels aux Conventions de Genève de 1977 et la protection des biens de l'environnement", in *Studies and Essays on international humanitarian law..., op.cit.*, p. 191.

As for the implementation of IHL, we must bear in mind that, on the one hand, it is still highly dependent on the good faith of the States and that, on the other hand, protection of the environment is a matter of moral principle as well as legislation. As proclaimed in the World Charter for Nature, adopted by the United Nations in 1982: "Every form of life is unique, warranting respect regardless of its worth to man, and, to accord other organisms such recognition, man must be guided by a moral code of action". We must also bear in mind that both individuals and States are more likely to think twice before setting off a conflict when there are tested, effective and, if necessary, coercive procedures for the settlement of differences, as is often the case in national legislation.

However, such procedures are extremely rare at the international level, especially when it comes to the settlement of environmental disputes.

In that respect IHL, despite its many shortcomings in terms of practical implementation, is no less developed than most other branches of international law.

We therefore believe that the most sensible way to strengthen the protection of the environment in the event of armed conflict is to improve the implementation of the existing instruments and extend the scope of certain provisions, for example by ensuring the demilitarization of nature reserves.

This would constitute major progress in the field of environmental protection in the event of armed conflict. To go any further would be to overstep the limits of IHL. Emphasis should therefore be placed on ensuring that the principle of prevention — a key concept for the protection of the environment — is introduced as effectively as possible among the emergency rules to be applied in the event of hostilities.

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Environmental Destruction in the 1991 Gulf War*

by Adam Roberts

Since the 1991 war between Iraq and the coalition powers there has been much interest in the question of how to limit the environmental damage of warfare. In addressing that question, it is necessary to look at the events of the war itself, and to draw some conclusions from that experience as well as from other experience and from more normative approaches.

That there would be a high risk of environmental destruction in any war over Kuwait had been expected beforehand — not least because, in September 1990, Iraq had threatened destruction of oilfields. Thereafter, for better or for worse, many of those warning of environmental destruction described the probable damage in apocalyptic terms, and used it as an argument against resorting to war at all.

In the months between the occupation of Kuwait in August 1990 and the outbreak of war in January 1991 there was rather less public debate about the need to observe laws of war restraints, including those in regard to the environment, if war should break out. The UN Security Council did not address laws of war issues systematically in its resolutions in this period. However, the ICRC, in its representations to governments in mid-December 1990, did refer to protection of the natural environment. Then, in the letter handed to the Iraqi foreign minister in Geneva on 9 January 1991, President Bush warned that the US would not tolerate "the use of chemical or biological weapons, support for any kind of terrorist actions, or the destruction of Kuwait's oil fields and installations".

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* This is an extensively revised and abridged version of a paper presented at the ICRC Meeting of Experts on the Protection of the Environment in Time of Armed Conflict, Geneva, 27-29 April 1992. A longer version will appear in Peter Rowe (ed.), *The Gulf War and International Law*, Routledge, London, 1993.

Statements by coalition leaders

After the start of Operation "Desert Storm" on the night of 16-17 January 1991, statements by coalition governments placed some, albeit limited, emphasis on laws of war issues: but these were mostly of a rather general character, and contained few specific references to the protection of the environment or the avoidance of wanton destruction.

The address by President Bush on the evening of 16 January specified that targets which US forces were attacking were military in character, but contained no other indication of the limits applicable to the belligerents under the laws of war. In general, his speeches before and during the war contained little reference to the laws of war.

In remarks on 16-18 January, Richard Cheney, US Secretary of Defense, and Lt.-Gen. Chuck Horner, Commander of the US Central Command air forces, particularly stressed that the bombing campaign would avoid civilian objects and religious centres. Some of their words on this point echoed the words of Additional Protocol I of 1977, Article 48, which spells out the principle that belligerents must direct their operations only against military objectives.

During the war, the US armed forces appear to have placed much emphasis on operating within established legal limits. General Colin Powell said subsequently: "Decisions were impacted by legal considerations at every level. Lawyers proved invaluable in the decision-making process".[1]

There appear to have been some official American attempts to limit dicussion of the environmental effects of the war. On 25 January 1991 researchers at Lawrence Livermore National Laboratory received a memorandum which reads in part:

> "DOE [Department of Energy] Headquarters Public Affairs has requested that all DOE facilities and contractors immediately discontinue any further discussion of war-related research and issues with the media until further notice. The extent of what we are authorized to say about environmental impacts of fires/oil spills in the Middle East follows:

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[1] Steven Keeva, "Lawyers in the War Room", *ABA Journal*, American Bar Association, Chicago, Ill., vol. 77, December 1991, p. 52. See also the passage on "Role of Legal Advisers" in *Conduct of the Persian Gulf War: Final Report to Congress*, Washington DC, Department of Defense, April 1992, pp. 0-3 and 0-4.

> Most independent studies and experts suggest that the catastrophic predictions in some recent news reports are exaggerated. We are currently reviewing the matter, but these predictions remain speculative and do not warrant any further comment at this time".[2]

The British Government, at the start of "Desert Storm", stressed that the coalition forces were operating within a framework of legal and moral restraint. Prime Minister John Major told the House of Commons on 17 January:

> "I also confirm that the instructions that have been given to all the allied pilots are to minimize civilian casualties wherever that is possible, and the targets that they have been instructed to attack are, without exception, military targets or targets of strategic importance".

He also said that the government had made clear to Iraq that it expected any captured British troops to be treated as prisoners of war according to international convention, adding that there had been "no positive response" from Iraq. At the beginning of the war there do not appear to have been any British government statements of a general character about the laws of war as they bear on the environment.

Iraqi actions on oil

Soon after the beginning of "Desert Storm", the Iraqi forces launched an artillery attack against the Khafji oil storage depot in northern Saudi Arabia, setting it on fire. It began to leak oil into the Gulf on about 22-23 January, causing the first major oil slick of the war. However, this was probably as much a military target as the oil depots and refineries in Iraq which were hit by the coalition bombing.

A much larger slick was caused by pumping huge quantities of oil into the Gulf from the Sea Island Terminal, a pumping station for the Mina al-Ahmadi crude oil tank farm in Kuwait. This apparently began on about 19 January. The spill was reportedly reduced by co-

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[2] Text published in *Scientific American*, New York, vol. 264, no. 5, May 1991, p. 9. A DOE spokesperson is quoted as saying that the policy was not intended to "muzzle the debate", but because discussions of the possible effects of fires and oil spills could "give the Iraqis ideas".

alition forces accidentally setting the terminal ablaze on the night of 25-26 January, and then brought under control by coalition bombing of the pumping stations at Mina al-Ahmadi on 26 January. There were also huge spills into the Gulf from five Iraqi tankers moored at Mina al-Ahmadi: by 24 January these ships were apparently empty, or almost empty, of oil.

The total amount of oil spilled into the Gulf almost certainly constituted the largest oil spill ever. It was much bigger than the *Exxon Valdez* disaster in Prince William Sound, Alaska, in March 1989, of around 250,000 barrels; and also bigger than the less well-known but larger oil rig accident in the Gulf of Mexico in 1979, of over 3,750,000 barrels. Estimates at the time of the total amount of oil spilled into the Gulf ranged up to eleven million or more barrels of crude. The true size of the spill was probably between seven and nine million barrels.[3]

The total damage done by the slicks, while less than many had feared, was considerable. By May, over 400 kilometres of the Saudi coast, as well as the southern Kuwaiti coast, was affected. There was damage to coastal marshlands, to wildlife (over 15,000 birds killed), to coastal flora, to fishing, and to offshore oil operations.[4]

The most dramatic Iraqi environmental crime, the destruction of the oilfields of Kuwait, was unprecedented in scale. It had been carefully prepared. Some oil installations in Kuwait were set on fire by the Iraqis during the first week of the war. Then on about 21 February, just before the coalition ground offensive began on 23-24 February, Iraq started the programme of systematic destruction of oil installations, casting a huge pall of smoke across the country. Before Iraqi forces fled from Kuwait one week later, they blew up or damaged virtually all the oil installations. Over 500 wells were set on fire, wasting between 2 and 6 million barrels per day.[5]

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[3] Pentagon, *Final Report to Congress*, p. 0-26. In the same month, a Greenpeace paper by William M. Arkin, "Gulf War Damage to the Natural Environment", pp. 2-3, gave the same figure, but mentioned additionally that smaller quantities of oil continued to leak into the Gulf from a number of sources until May or early June 1991.

[4] A short survey of ecological damage is *The Environmental Legacy of the Gulf War*, Amsterdam, Greenpeace, 1992.

[5] Kuwait Environment Protection Council, *State of the Environment Report: A Case Study of Iraqi Regime Crimes Against the Environment*, Kuwait, November 1991, pp. 1, 2-3, and Table in Fig. 2. This states that after 26 February, 613 wells were on fire, 76 gushing, and 99 damaged. It quotes the Ministry of Oil in Kuwait as stating that 6 million barrels of oil per day, and 100 million cubic metres of gas a day, were being lost. Greenpeace, *The Environmental Legacy of the Gulf War*, pp. 17 and 38, gives figures of between 2.3 and 6 million barrels per day.

These Iraqi actions seem to have had little military rationale. Kuwait later claimed that the environmental devastation was not the result of military conflict, but "the product of a deliberate act that was planned in the very first days of the brutal Iraqi occupation of Kuwait".[6] It is possible that the oil slicks in the Gulf were intended to hamper possible efforts at amphibious landings in Kuwait: however, quite apart from the doubtfully relevant fact that (as emerged later) the coalition's preparations for such landings were a ruse, it is debatable whether slicks created by the odd terminal disgorging oil would have seriously hampered any amphibious landings. The coalition powers managed by various means to avoid oil damage to their ships.[7] As to the burning of the oil wells, in some cases the creation of huge smoke clouds may have been intended to hamper coalition air operations, especially reconnaissance and ground attack. However, smoke palls could achieve little since Iraq's defence plan was essentially static and predictable, and since the palls quickly lofted to levels high enough to allow aicraft to operate underneath. There are conflicting views as to whether the smoke had a slight military effect or none.[8]

What was the purpose of Iraq's releasing of oil and destroying oilfields? It was probably less tactical than punitive and destructive: to show that a country losing a war can still do damage, hurt its adversaries and neighbours, and diminish the value of the prize for which the war is being fought. The fact that only Kuwaiti wells were set alight, and not those on the Iraqi side of the border, confirms this, as does the fact that explosive charges were used, rather than simple ignition with opened valves.

The Iraqi environmental destruction was heavily criticized by coalition leaders. Thus on 25 January, as the extent of the Iraqi oil spill into the Gulf was attracting notice, President Bush said at a news conference:

> "Saddam Hussein continues to amaze the world. First, he uses these Scud missiles that have no military value whatsoever. Then, he uses the lives of prisoners of war, parading them and threat-

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[6] Letter from Permanent Mission of Kuwait at UN to the UN Secretary-General, 12 July 1991; text in Glen Plant (ed.), *Environmental Protection and the Law of War*, London, Belhaven Press, 1992, p. 265.

[7] Confirmed by the Pentagon in *Conduct of the Persian Gulf Conflict: An Interim Report to Congress*, Washington DC, Department of Defense, July 1991, pp. 13-1 and 13-2; and in the 1992 *Final Report to Congress*, p. 0-27.

[8] Compare the Pentagon's *Interim Report to Congress*, p. 13-2 (which says the smoke did have some effect) with the *Final Report to Congress*, p. 0-27 (which says it had little).

ening to use them as shields; obviously, they have been brutalized. And now he resorts to enormous environmental damage in terms of letting loose a lot of oil — no military advantage to him whatsoever in this. It is not going to help him at all... I mean, he clearly is outraging the world".

In late January and February, the British Minister for the Environment similarly condemned Iraqi actions as "unleashing this environmental catastrophe", and "a violation of international law". On the environmental impact of operations by the forces seeking to implement UN resolutions, he said: "Environmental factors are taken into account by the coalition forces as far as possible in the planning and conduct of military operations as part of the policy of ensuring that collateral damage from those operations is minimized".[9]

On 22 February, as the Iraqis began destroying the Kuwaiti oil installations, and on the eve of the coalition land offensive, President Bush said: "He is wantonly setting fire to and destroying the oil wells, the oil tanks, the export terminals, and other installations of that small country".

The effects of the destruction of the oil installations in Kuwait proved to be serious, though mainly confined to the region. The rate of burn-off was actually higher than many had anticipated. The flood of oil from the wells formed lakes and reportedly affected aquifers. The fires involved huge waste of a valuable natural resource, and spewed many gases, including the "greenhouse" gas carbon dioxide (perhaps 3 per cent of the world's total annual fossil fuel emissions), into the atmosphere. In Kuwait in the months after the war, there was heavy atmospheric pollution, causing an increase in respiratory illnesses, a lowering of regional temperatures, and much damage to the land.[10] The smoke was widely reported as having adverse effects in neighbouring countries, including Iran. There were reports of black rain in Turkey, Iran and the Himalayas. However, soot from the fires does not appear to have risen high enough to cause the global environmental effects which some had feared.[11]

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[9] *Hansard*, London, vol. 184, col. 655, 28 January 1991; vol. 186, cols. 285-6, 22 February 1991.

[10] See e.g. Greenpeace, *Environmental Legacy of the Gulf War*, pp. 17-22 and 34.

[11] John Horgan, "Up in Flames", *Scientific American*, vol. 264, no. 5, May 1991, pp. 7-9; Neville Brown, "The Blazing Oilwells of Kuwait", *The World Today*, London, vol. 47, no. 6, June 1991; D. W. Johnson *et al.*, "Airborne Observations of the Physical and Chemical Characteristics of the Kuwait Oil Smoke Plume", *Nature*, London, vol. 353, no. 6345, 17 October 1991, esp. at p. 621.

The Iraqi actions — the discharge of oil into the Gulf, and the burning of the Kuwaiti oilfields — were plainly contrary to the laws of war. There has been general agreement that they violated Article 23 (g) of the Hague Regulations of 1907. It is also widely accepted that they violated Article 147 of the Fourth Geneva Convention of 1949, and also Article 53, which is in the section on occupied territories. Whether the Iraqi actions would have constituted violations of two conventions in this field which mention the environment — the 1977 ENMOD Convention, and the 1977 Additional Protocol I — neither of which was formally in force in the Gulf war, is a more contentious matter.

As regards ENMOD, a key question is: was Iraq, to use the language of Article II, "changing — through the deliberate manipulation of natural processes — the dynamics, composition or structure of the Earth, including its biota, lithosphere, hydrosphere and atmosphere"? It might well be asserted that this was, rather, a case of the deliberate abuse of man-made installations and artificial processes: of damage *to* the environment, but not necessarily damage *by* the forces of the environment. The terms of ENMOD, as well as the fact that it was not in force in this war, suggest that it has limited relevance to the Iraqi actions.[12]

As regards Articles 35 and 55 of the 1977 Protocol I, there is perhaps more room for the view that Iraqi actions would have violated these environmental provisions. In its July 1991 interim report to Congress, the Pentagon stated that Iraq had committed extensive and premeditated war crimes, which included "unnecessary destruction, as evidenced by the release of oil into the Persian Gulf and the sabotage of hundreds of Kuwaiti oil wells". It stated that these actions "could implicate a number of customary and conventional international law principles", including the 1907 Hague Regulations and the Fourth Geneva Convention of 1949, and further mentioned in its list Articles 35 and 55 of the 1977 Additional Protocol I.[13] However, the Pentagon's April 1992 final report, while continuing to assert the illegality of Iraqi actions, was much more dismissive of the Protocol's relevance, especially in the following:

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[12] This is the clear conclusion of the Pentagon's *Interim Report to Congress*, p. 12-6; and *Final Report to Congress*, pp. 0-26 and 0-27.

[13] *Interim Report to Congress*, pp. 12-5 and 12-6.

"Even had Protocol I been in force, there were questions as to whether the Iraqi actions would have violated its environmental provisions. During that treaty's negotiation, there was general agreement that one of its criteria for determining whether a violation had taken place ('long term') was measured in decades. It is not clear the damage Iraq caused, while severe in the layman's sense of the term, would meet the technical-legal use of that term in Protocol I".[14]

This passage is likely to provoke criticism. Yet the fact that there is scope for debate about the relevance of the environmental provisions of Protocol I (and also of ENMOD) suggests the importance of other provisions, including those of the 1907 Hague Regulations and the Fourth Geneva Convention of 1949: these were a key basis for judging the actions of the belligerents.

Coalition military actions

Many coalition actions in the crisis had environmental consequences, even if they were on a lesser scale than those caused by their adversaries. Of all the actions which were taken by the coalition, that which has attracted most attention as regards environmental consequences is the bombing of Iraq. Many objects which were attacked, such as oil storage sites, power stations and factories, provided for the needs of both the armed forces and the civilian population. It must be doubtful whether it is possible to embark on a policy of damaging the military function of such targets without at the same time doing harm to the civilian population and/or the environment; and so it proved in this case. In March 1991, in the immediate aftermath of the war, a controversial report submitted to the United Nations noted the destruction of non-military objects in Iraq: for example, seed warehouses, and a plant producing veterinary vaccines; and it said that "all electrically operated installations have ceased to function", causing shortages and contamination of the water supply.[15] The damage to facilities serving Iraqi civilian life was also criticized in a report by Middle East

[14] *Final Report to Congress*, p. 0-27.

[15] Report of the UN Secretary-General to the President of the Security Council, New York, 20 March 1991 (S/22366), prepared by Under-Secretary-General Martti Ahtisaari.

Watch.[16] Some other reports in the aftermath of the war were less negative.[17]

Coalition attacks on nuclear facilities in Iraq inevitably raised worries that there might be substantial release of radioactive materials. In the event, any such release appears to have been minor. The question remains, which will no doubt be faced in future conflicts, whether attacks on such facilities are contrary to the laws of war. There is no absolute answer. The problem comes closest to being addressed in the 1977 Additional Protocol I, Article 56, on "Works and installations containing dangerous forces". However, this is of limited relevance, mainly because it deals with "nuclear electrical generating stations", but does not appear to address the types of nuclear installations actually attacked in Iraq. Even if the targets had been nuclear electrical generating stations, attack is only prohibited (and then incompletely) "if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population". If attack does take place, "all practical precautions shall be taken to avoid the release of the dangerous forces". These formulae leave much to the judgement and skill of the attackers. Clearly attacks on nuclear installations, such as occurred in the 1991 Gulf war, risk very serious consequences, and require very special reasons and precautions: but it cannot be said that they are always prohibited.

A strong defence of the coalition bombing policy generally can be made along the lines that it was aimed at targets which had some military relevance, was conducted with unusual precision, and any damage which was outside the proper military purposes of the war was accidental or collateral in character. These points were emphasized by Tom King MP, Secretary of State for Defence, in evidence to the Defence Committee of the House of Commons on 6 March 1991. He stated categorically that water pumping plants in Baghdad had not been a target, though their operations had inevitably suffered from the attacks on electrical power-generating stations; and he said that nuclear reactors were only attacked "after the most detailed planning to minimize the risk of any radiation spreading outside the site".[18] The

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[16] *Needless Deaths in the Gulf War: Civilian Casualties During the Air Campaign and Violations of the Laws of War*, Middle East Watch/Human Rights Watch, New York, 1991, 402 pp.

[17] See for example the report by Paul Lewis, "Effects of War Begin to Fade in Iraq", *New York Times*, 12 May 1991, p. 2E.

[18] House of Commons, Defence Committee, Tenth Report, *Preliminary Lessons of Operation Granby*, HMSO, London, July 1991, pp. 10-11.

account of the war in the British defence white paper makes the same point:

> "There was evidence too that Iraq had been seeking to develop nuclear and biological weapons. The allies therefore placed great importance on deterring Iraq from using any such weapons. Alliance leaders made it clear they would take the gravest view of any Iraqi use of weapons of mass destruction. Production and development facilities were attacked with precision-guided munitions using tactics designed to minimize any risk of contamination outside the sites".[19]

Similarly, the Pentagon's reports to the US Congress in July 1991 and April 1992 say of the bombing campaign that aircraft and munitions were carefully selected to achieve "the least risk to civilian objects and the civilian population".[20]

Taking the coalition bombing campaign overall, and making full allowance for the inadequate state of current information about its effects, it does appear that such coalition actions as damaged the environment were less wanton and gratuitous than the Iraqi oil crimes in Kuwait, and that some, but only some, significant efforts were made to avoid or reduce certain kinds of environmental damage. However, the bombing campaign is an uncomfortable reminder that prohibiting or reducing the environmental damage of war is not a simple task. Oscar Schachter's judgement is worth noting: "The enormous devastation that did result from the massive aerial attacks suggests that the legal standards of distinction and proportionality did not have much practical effect".[21]

The coalition did avoid some actions which would have affected the environment. In the months before the war, when UN Security Council sanctions were imposed on Iraq, there were some proposals that Iraq might be defeated by stopping the flow of the Tigris and Euphrates (both of which originate in Turkey): these proposals were not implemented, for reasons which can be guessed but are not definitely known.

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[19] *Statement on the Defence Estimates, 1991*, vol. 1, HMSO, London, July 1991, p. 17.

[20] Department of Defense , *Interim Report to Congress*, p. 12-3; and *Final Report to Congress*, p. 0-10.

[21] Oscar Schachter, "United Nations Law in the Gulf Conflict", *American Journal of International Law*, Washington DC, vol. 85, no. 3, July 1991, p. 466.

Remnants of war

The dangerous effects of remnants of war have long been a cause of concern, including to the United Nations. Such acts as the laying of mines without keeping careful plans violate basic principles of the laws of war on several grounds. They pose an obvious risk to innocent human life, even after the end of a war, and they may degrade the environment in a lasting way. Moreover, attempts to make the land environment safe again are liable to cost a great deal of money, human effort and lives.

The 1991 Gulf war left the land littered with the remnants of war. There were pools of oil near the destroyed oil installations and on the frontier with Saudi Arabia, where they had been prepared by Iraqi forces to frustrate a coalition invasion. Iraqi forces reportedly laid well over 500,000 mines in Kuwait and abandoned quantities of unexploded ordnance. As to the coalition, as many as one third of its bombs and projectiles reportedly failed to detonate, the soft sand and the use of stockpiled or experimental weapons increasing the failure rate; and many US anti-personnel mines, dropped into the battle area, remained a lethal hazard afterwards. In less than a year after the war, explosive ordnance reportedly killed or wounded some 1,250 civilians and claimed fifty lives among demolition specialists.[22] Substantial quantities of depleted uranium, which is toxic and mildly radioactive, were left in armour-piercing shells in the desert.

Some less-publicized aspects of environmental damage were potentially serious. According to some accounts, the movements of armoured vehicles over the desert landscape of Saudi Arabia, Kuwait and Iraq in the months of crisis and war left the desert surface looser than before, and may have increased the likelihood of severe sandstorms.

Action to protect the environment during and after the war

During and after the war the tackling of major environmental hazards in the whole area of the conflict involved difficult problems

[22] Tony Horwitz, report from Kuwait, *The Wall Street Journal Europe*, Brussels, 21 January 1992.

of diagnosis, prescription, organization and international co-operation. Not all were handled equally effectively.

There was much action to limit the effects of the oil spills in the Gulf. The US government took some effective steps on an inter-agency basis. A huge containment and recovery effort was made by Saudi Arabia's Meteorology and Environmental Protection Administration, and by the International Maritime Organization. Under the auspices of the UN Environment Programme and the Kuwait Regional Convention on Protection of the Marine Environment 1978 a special oil clean-up ship, the *Ali-Wasit*, recovered 500,000 barrels of oil from the Gulf. Altogether some two million barrels of oil were recovered. A serious threat to the world's largest desalination plant, at al-Jubayl in Saudi Arabia, was effectively countered by booms, nets and skimmers — the one part of the protection and clean-up effort that seems to have been completely successful. The efforts concentrated on protecting industrial and desalination plants, and not environmentally sensitive areas. There is much dispute over methods of tackling this and similar disasters.[23] Overall, while there remains a thick tarry layer in the sands of the Saudi coast, the waters and wildlife of the Gulf have made an impressive recovery, confirming to some observers the remarkable capacity of nature to survive disasters.

As to the oil fires in Kuwait, there was debate about the adequacy of preparations during the war, by either the US government or the Kuwaiti government in exile, to prepare for putting them out. After a slow start, work on controlling the oil fires gathered pace: the last fire was extinguished on 6 November 1991. There were inevitably missed opportunities, and many lessons to be learned from this episode so far as future oil fire disasters are concerned. In 1992 there was criticism of the Kuwaiti authorities for further damaging the wells by rushing to bring them back on stream before they had time to recover.[24] Numerous other aspects of the clean-up operations posed problems. In Kuwait, huge quantities of oil remained on the surface even after the fires were put out.

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[23] On the methods of coping with the oil spills in the Gulf, see especially William M. Arkin *et al.*, "On Impact: Modern Warfare and the Environment — A Case Study of the Gulf War", Washington DC, May 1991, pp. 63-6; John Horgan, "The Muddled Cleanup in the Persian Gulf", *Scientific American*, vol. 265, no. 4, October 1991, pp. 86-8; and Marguerite Holloway, "Soiled Shores", same issue, pp. 81-94.

[24] See e.g. Maria Kielmas, "Kuwait Plunders Oilfields to Destruction", *The Independent*, London, 22 May 1992.

UN Security Council post-war resolutions

After the war, the UN Security Council held Iraq responsible for the damage caused by the invasion and occupation of Kuwait. Resolution 686 of 2 March 1991 demanded that Iraq "accept in principle its liability under international law for any loss, damage, or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq". It also required Iraq to "provide all information and assistance in identifying Iraqi mines, booby traps and other explosives as well as any chemical and biological weapons and material in Kuwait...".

Resolution 687 of 3 April 1991 — the longest ever passed by the Security Council — contained many provisions relevant to the environment. It reaffirmed that Iraq "is liable under international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait". Further, stringent measures of disarmament — especially in the chemical, biological, missile and nuclear fields — were imposed on Iraq by that and subsequent resolutions.

Despite these UN resolutions, after the cease-fire almost nothing was heard from the coalition governments on the subject of the major war crimes, and the personal responsibility of Saddam Hussein and colleagues for them. An opportunity to spell out the criminal nature of certain Iraqi actions, including wanton damage to the environment, was missed. The Security Council's failure after the war to address the question of war crimes was all the more striking in view of the explicit reference to such crimes in resolution 674 of 29 October 1990.

The reasons why the war crimes issue was not pursued are serious and need to be understood. Three stand out. First, there was wide agreement in the months before January 1991 that if there was to be a war for the liberation of Kuwait, it had to be a limited war for limited objectives: neither the occupation of Iraq nor the capture of its leadership would have made sense in this context. Second, there was nervousness in coalition capitals about going ahead if opinion in countries in the region did not support trials. And third, in many coalition capitals there was the hope, publicly expressed from the beginning of the war, that some internal political change within Iraq would solve the problem for them.

However, as a minimum it would have been possible for an authoritative statement to be made, to the effect that major war crimes had occurred, involving *inter alia* grave breaches of the Geneva

Conventions, that there was personal responsibility for these crimes, and that under the Geneva Convention any State is entitled to prosecute. Such a statement could have been made by the coalition powers, the UN General Assembly, or the Security Council.

General issues and conclusions

One war is too narrow a frame of reference for making hard and fast observations on the multi-faceted subject of the impact of war on the environment.[25] Environmentalists and lawyers may, like generals, be open to the accusation of always fighting the last war. Vietnam produced very different environmental problems, and so will present and future wars. Both in peace and war, environmental damage can take many forms, can be very hard to forecast beforehand and to assess afterwards, is open to very different interpretations and is hard to rectify. However, the events of the 1991 Gulf war do suggest a number of conclusions, which may be briefly summarized as follows:

1. Prophecies of total global ecological disaster appear in this case to have been exaggerated. The most serious ecological consequences of the war were local, mainly in Kuwait but also in Iraq and in other States which border on the Gulf. While the consequences of the oil crimes were extremely serious, the aspect of environmental damage which cost the most in human lives was probably the scattering of hundreds of thousands of mines and other remnants of war in land areas.

2. The use of environmental considerations may in cerain circumstances be ineffective as a reason against resorting to war at all. This is not only because some prophecies of doom may not be believed, but also because ecological factors may be counterbalanced by other powerful considerations (e.g. prevention of aggression, maintenance of credibility of international institutions) or interests. The *jus in bello* aspects of environmental protection therefore need to be taken seriously.

3. While the coalition powers affirmed that they did take environmental considerations into account in many aspects of their actions,

[25] A point made admirably by Antoine Bouvier, "Protection of the Natural Environment in Time of Armed Conflict", *IRRC*, No. 285, November-December 1991, p. 570.

many problems remained. Attacks on such military targets as electric generating stations had serious effects on water and sewage systems, leading to disease and loss of life. Attacks on nuclear installations, however skilfully they were conducted, inevitably involved some risk of contamination.

4. There was never much doubt in the international community that acts such as wholesale releases of oil into the Gulf or destruction of the Kuwaiti oilfields were illegal. However, the legal grounds for asserting this illegality were not always clearly enunciated. There was too much tendency to rely on legal provisions which specifically mention the word "environment" (including Articles 35 and 55 of Additional Protocol I of 1977) — provisions which were of limited applicability and relevance in this case. Other general principles and detailed provisions of the laws of war, including those of the 1907 Hague Regulations and the 1949 Geneva Conventions, were indisputably in force and clearly covered these acts of wanton destruction.

5. The various environmentally destructive acts in this war were caused not by new or advanced weaponry but by selecting as targets sensitive installations. Also, many of these acts were not so much acts of combat as wanton destruction of property in occupied territory. They thus represent new manifestations of problems traditionally tackled by the laws of war — problems which are likely to get more serious as societies develop.

6. A key question raised by the environmental destruction in this war (as also by the Iraqi use of hostages) is not that of developing new law, but rather of how to secure understanding and implementation of existing law. In particular, how is the international community to respond before, during, and after a war, when one belligerent apparently rejects basic provisions of the laws of war and/or appears unconcerned about environmental issues?

7. During a war, preventing an adversary from committing environmentally destructive acts, even where they have little or no military value, can be a particularly complex task. It can easily appear that the coalition did not make serious enough efforts in this direction: for example, of the many leaflets dropped by the coalition powers on Iraqi forces, none discouraged environmental destruction. Perhaps a main reason for this is that the coalition was deeply preoccupied with dissuading Iraq from other actions — such as use of gas and chemical weapons — which were also illegal, and which posed a much more immediate threat to the lives of coalition troops.

8. This war, especially the spills in the Gulf, raised two questions which may need consideration even if the answers may not be simple. First, to what extent do peacetime environmental rules (such as the Kuwait Regional Convention on the Protection of the Marine Environment 1978) continue to be applicable in a war? And can wartime clean-up efforts (which may involve specialists of many types) have any protection comparable, say, to that accorded in various treaties to humanitarian relief efforts?

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Recent studies on the protection of the environment in time of armed conflict

by Antoine Bouvier[1]

"War and preparation for war are a major source of environmental damage which must be subjected to greater accountability and control".[2]

Introduction

The problem of protecting the environment in time of armed conflict has given rise to numerous discussions and major studies over the last two years.

In our opinion, there are at least two distinct reasons for the keen interest in this question. In the first place it is quite logically a response to the increasingly energetic efforts to improve, both nationally and internationally, the protection of the environment in peacetime.[3] Secondly, this interest reflects the fears engendered during and after the 1990-1991 Gulf war that set the Middle East ablaze.

At that time, governments and public opinion realized more than ever before how dangerous modern warfare can be for the natural environment.

Quite a lot of legal and ecological issues arising from this conflict still remain unsettled. It is as yet impossible to make a conclusive "ecological assessment" of it: nature evolves slowly and a longer

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[1] The views expressed here are those of the author alone and do not necessarily reflect those of the International Committee of the Red Cross.

[2] Statement by Mr. Maurice Strong, Secretary-General of the United Nations Conference on Environment and Development, made during the Conference opening ceremony on 3 June 1992 in Rio de Janeiro.

[3] For an in-depth analysis of the development of international environmental law see: Kiss, A. and Shelton, D.: *International environmental law*, Transnational Publishers, Inc., London, 1991.

period of observation is required before an accurate analysis of the environmental damage caused by the conflict can be completed.[4]

For reasons which do not come within the scope of this article, the most pessimistic forecasts have fortunately failed to materialize and some of the most spectacular instances of environmental damage (if not indeed the most serious, for example the burning of the Kuwait oil wells), had less lasting effects than was feared. This relatively fortunate development did not however affect the work to improve the protection of the environment in time of armed conflict that was begun immediately after the close of hostilities.[5] On the contrary, this work was intensified and the issue has recently appeared on the agenda at several international conferences.

The purpose of the present article is not to analyse the regulations governing the protection of the environment in time of armed conflict[6] or to examine the special case presented by the 1990-91 Gulf war.[7]

Its objective rather is to present the results of some recent studies on the protection of the environment in time of conflict.

To this end, consideration will be given in turn to the work of a meeting of experts convened by the International Committee of the Red Cross in April 1992, the discussions of the Rio Conference on the protection of the environment in time of conflict and the main results

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[4] In this connection see *The Environmental Legacy of the Gulf War, a Greenpeace Report*, 1992. The report also includes a close analysis of already known instances of environmental damage.

[5] For further information on these initial studies, see Bouvier, A.: "The protection of the natural environment in time of armed conflict", *IRRC*, No. 285, November-December 1991, p. 570, footnote 14.

[6] For this, see the article by Philippe Antoine, "International humanitarian law and the protection of the environment in time of armed conflict", published in the present issue of the *Review*, pp. 517-537. See also Bothe, M., "The protection of the environment in times of armed conflicts: Legal rules, uncertainty, deficiencies and possible developments in the *Report on the work of the meeting of experts on the protection of the environment in time of armed conflict*, ICRC, Geneva, September 1992; Bouvier, A., *op. cit.*; Falk, R.: "The Environmental Law of War: an Introduction" in Plant, G. (ed.). *Environmental Protection and the Law of War*, Belhaven Press, London and New York, 1992, pp. 78-95; Saalfeld, M., «Umweltschutz in bewaffneten Konflikten aus völkerrechtsgeschichtlicher Sicht", in *Humanitäres Völkerrecht*, No. 1, 1992, pp. 23-31.

[7] In this connection see the article by Adam Roberts, "Destruction of the environment during the 1991 Gulf War" published in this issue of the *Review*, pp. 538-553. See also: Fauteux, P., "Environmental Law and the Gulf War" in *International Union for the Conservation of Nature Bulletin*, Vol. 22, No. 2, September 1991, pp. 26-27; Terry, J., "The Environment and the Laws of War; the Impact of Desert Storm", in *Naval War College Review*, Vol. XLV, No. 1, pp. 61-67.

of the second meeting to review the ENMOD Convention[8] which was held in September 1992.

Some aspects of the current discussions in the Sixth Committee of the United Nations General Assembly will also be examined.

I. Meeting of experts convened by the ICRC (Geneva, 27-29 April 1992)

Since the ICRC has been mandated by the international community "to work for the understanding and dissemination of knowledge of international humanitarian law [...] and to prepare any development thereof",[9] it is naturally directly concerned by the problem of the protection of the environment in time of armed conflict.

It has accordingly taken part in work devoted to this subject after the 1990-1991 Gulf war and prepared a report for the 26th International Conference of the Red Cross and Red Crescent[10] (Budapest, November-December 1991).[11]

The ICRC's competence as regards the protection of the environment in time of armed conflict was, moreover, explicitly endorsed at the 46th session of the United Nations General Assembly (1991): in General Assembly decision 46/417 the ICRC was invited to continue its work in this area and to report to the 47th session. (See Chapter IV below.)

To discharge this mandate, the ICRC convened a meeting of experts to study the problem of protection of the environment in time of armed conflict. The meeting, which was held in Geneva from 27 to 29 April 1992, brought together some thirty experts from the armed forces, academic circles, the scientific community and governments as well as representatives of governmental and non-governmental

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[8] Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques.

[9] See the Statutes of the International Red Cross and Red Crescent Movement, Article 5 g).

[10] Doc. C.I/4.2/1: Implementation of IHL, protection of the civilian population and persons *hors de combat*, pp. 15-23.

[11] This conference finally had to be postponed to a later date. An explanation for this postponement is given in an article by Y. Sandoz: "A propos of the postponement of the 26th International Conference of the Red Cross and Red Crescent", *IRRC* No. 286, January-February 1992, pp. 5-12.

organizations. All were invited on a personal basis.[12] The goals of the meeting were as follows:

1. to define the content of existing law;
2. to identify the main problems involved in implementing this law;
3. to identify any gaps in existing law;
4. to determine what should be done in this area.

It is obviously not possible here to cover all the discussions at the meeting or go into the experts' conclusions in detail (some of their conclusions were of a provisional nature because certain questions require further examination).

The following account therefore gives only the main points discussed.

The importance and relevance of the currently applicable rules (whether of treaty-based or customary international humanitarian law, environmental law or rules based on the principles of public international law governing international responsibility) were clearly reaffirmed. The experts expressed the opinion that if these rules are sufficiently known, implemented and respected, they should effectively protect the environment. In that connection, the experts insisted on the need to spread knowledge of them as widely as possible during peacetime, particularly through the use of *handbooks* specifically intended for members of the armed forces.

The experts then examined the applicability during conflicts of the rules of *international environmental law.* Although the provisions of this law are intended *a priori* for peacetime, most of the experts agreed that they could be presumed to be applicable also during armed conflict.

While acknowledging the importance of the existing law, the experts also came to the conclusion that there was *a need to clarify certain aspects of applicable* law in order to adapt it more closely to the realities of modern conflicts; the protection of the environment during *non-international armed conflict* was mentioned as one of the areas in which clarification was imperative.

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[12] The report on the meeting is entitled "Meeting of experts on the protection of the environment in time of armed conflict. Report on the work of the meeting", ICRC, Geneva, September 1992. Cf. also Doc. UN A/ç//328 of 31 July 1992 "Protection of the environment in times of armed conflict", Report of the Secretary General, pp. 11-14. The meeting was also reported in *UNIDIR Newsletter,* No. 18, July 1992, pp. 46-47.

The experts also agreed with certain proposals *to develop the law*. They supported the proposal put forward by some of them to protect *nature reserves* which, subject to conditions that remain to be set, could be likened to demilitarized zones or other protected areas.

The meeting drew up a list of the main legal questions which deserved attention.[13] They included the role and exact scope of the rules of customary law protecting the environment; interpretation of the applicable treaty-based rules (in particular those of the 1977 Additional Protocol I and the provisions of the ENMOD Convention); the balance which should be preserved between military necessity and the protection of the environment; and the question of international responsibility in the event of serious damage to the environment.

For lack of time, it was not possible to examine all these questions and further studies will have to be undertaken before final conclusions can be reached. The meeting did however provide an opportunity to analyse certain delicate questions in depth and the result has been, by and large, encouraging.

II. United Nations Conference on the Environment and Development (Rio de Janeiro, 3-14 June 1992)

The Conference, which was the outcome of very long and arduous preparations, reviewed most of the questions concerning *development, the protection of the environment*, and the links between these two complicated issues.

Given the Conference's extensive agenda — which included such sensitive issues as *technology transfer, weather modification* and *sound management of biotechnology*, to cite but a few examples — the specific subject of protecting the environment in time of conflict naturally occupied only a marginal position.

Nevertheless, this subject gave rise to a major exchange of views, both during the preparatory meetings and during the Conference itself.

(a) Conference Preparatory Committee

The protection of the environment in time of conflict was discussed during the third meeting of the Preparatory Committee

[13] This list appears as Annex 5 in the report on the proceedings of the meeting (cf. footnote 12 above).

(Geneva, 12 August - 4 September 1991), after a report had been submitted on the "environmental assessment of the Gulf crisis".[14]

On that occasion, the Secretary-General of the Conference, Mr. Maurice Strong, said he was convinced that "much strengthened measures to prevent deliberate damage to the environment as an instrument of war must be put in place".[15]

The ICRC, which was invited to present the main legal provisions relating to the protection of the environment in time of conflict,[16] reaffirmed the usefulness and importance of the existing rules and stressed the need to find ways of improving their implementation and compliance with them.

There were few proposals to establish new rules; instead, the participants at the meetings of the Preparatory Committee underscored the importance and relevance of existing law and the need for greater compliance with it.

This view is clearly reflected in the following two draft articles directly concerning the protection of the environment in time of conflict which the Preparatory Committee submitted to the Rio Conference for adoption:

1. Principle 24 of the Rio Declaration: "Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary."

2. Paragraph 39.6 (a) of Agenda 21: "[In view of the importance of full compliance with the relevant rules of international law, all appropriate means should be considered to prevent wilfully caused large-scale destruction of the environment [in times of war], which cannot be justified under international law. The General Assembly and its Sixth Committee as well as, in particular, the expert meetings of the International Committee of the Red Cross, are the appropriate forums to deal with this subject.]"[17]

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[14] *Environmental Assessment of the Gulf Crisis*, Report of the Secretary-General of the Conference, doc. A/CONF. 151/PC/72 of 15 July 1991.

[15] Cf. doc. *Opening Plenary Statement*, Prep. Com. III, Mr. Maurice F. Strong, 26 August 1991.

[16] Cf. doc. *Protection of the natural environment in time of armed conflict, an overview of IHL and of the position of the ICRC*, Geneva, 19 August 1991.

[17] Cf. doc. A/CONF.151/PC/WG III/L.32 as revised.

(b) The Rio Conference

As was to be expected (see above) the Rio Conference "dedicated only marginal attention to the problem of the impact of warfare on the environment".[18]

However this subject came up on several occasions during the *general discussions*.[19] Several speakers pointed to the seriousness of damage to the environment in time of conflict and stressed "the inherent danger to the environment associated with armed conflict".[20] Here, too, few delegations opted for developing the law, with most of them calling for greater compliance with it.[21]

The most important discussions took place within the *Contact Group on Legal Instruments*, whose task was to examine the articles in Chapter 39 of Agenda 21 on which views diverged.

After difficult negotiations, a modified version of paragraph 39.6 (a) (see above) was finally adopted by consensus.

The following text was then submitted to Plenary: "Measures in accordance with international law should be considered to address, in times of armed conflict, large-scale destruction of the environment that cannot be justified under international law. The General Assembly and its Sixth Committee are the appropriate forums to deal with this subject. The specific competence and role of the International Committee of the Red Cross should be taken into account".

At the *closing sessions* of the Conference, Principle 24 of the draft Rio Declaration[22] and paragraph 39.6 (a) as amended by the Contact Group[23] were adopted without modification; they mark the progress achieved in the Rio Conference's work to protect the environment in time of armed conflict.

These two articles make no appreciable change in the existing law; they do however testify to a heightened awareness of the risks which

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[18] Cf. Lamazières, G.: "The impact of warfare on the environment and related themes at the United Nations Conference on Environment and Development" in *UNIDIR Newsletter* No. 18, July 1992, p. 15.

[19] Cf. in particular the statement by the Secretary-General of the Conference, from which the quotation at the beginning of this article is taken, and those of the Swedish, Iranian, Hungarian, Saudi Arabian, Swiss and ICRC delegations.

[20] Cf. statement by the representative of Saudi Arabia.

[21] For instance Switzerland: "(...) certainly a large body of written and customary rules exists (...). However all too often these rules are misunderstood, misapplied or interpreted in different ways. States (...) have the obligation to respect them and ensure that they are respected under all circumstances."

[22] Cf. doc. A/Conf.151/5/Rev.1.

[23] Cf. doc. A/Conf.151/L.3/Add.39.

warfare entails for the environment. Moreover, the second article has the advantage of defining the framework in which this work will have to be continued.

III. Second Review Conference of the Parties to the ENMOD Convention (Geneva, 14-18 September 1992)

On 10 December 1976 the United Nations General Assembly adopted the ENMOD Convention. Its purpose is to prohibit the military or any other hostile use of "environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party" (Article I).

Within the meaning of Article II, the types of damage to the environment prohibited by the Convention are those which result from "any technique for changing — through the deliberate manipulation of natural processes — the dynamics, composition or structure of the Earth".[24]

Article VIII of the Convention makes provision for a periodic review of the operation of the Convention. An initial Review Conference was accordingly organized in Geneva in September 1984.[25]

The damage to the environment during the 1990-1991 conflict revived controversy about some aspects of the ENMOD Convention. In this connection, it will be recalled that the main objection raised by some specialists to this treaty was that it regulated only the use of future techniques (unrealistic in the opinion of some) and dismissed from its field of application environmental damage caused by "conventional" methods of warfare.

Some States requested a Second Review Conference to be convened precisely to remedy these shortcomings and update the

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[24] For a more in-depth analysis of the origins and contents of the ENMOD Convention cf. Goldblat, J.: "The Environmental Convention of 1977: an analysis" in A. Westings, ed: *Environmental Warfare*, SIPRI/Taylor and Francis, London 1984, Chapter 5, pp. 53-64; moreover, *UNIDIR Newsletter* No. 18, July 1992 includes several articles on this treaty.

[25] A summary of the work of the First Review Conference appears in doc. ENMOD/CONF.II/2 of 3 August 1992: "Summary of negotiations leading to the conclusion of the Convention (:::) and of subsequent developments related to the Convention.

Convention. After a Preparatory Committee[26] had met, the Conference was convened in Geneva from 14 to 18 September 1992.

(a) Participation in the Second Review Conference

Forty States party attended the Conference. In addition, ten non-party States and six specialized organizations, including the ICRC, were granted observer status.

(b) Participants' proposals

As it is not possible to include here all the proposals submitted to the Conference, only the most important ones are outlined below.

1. Many delegations raised the question of the Convention's applicability to environmental damage of the type caused during the Gulf war in 1990-1991. Most of the speakers admitted that, from a strictly legal point of view (irrespective of the fact that several of the warring parties were not party to the treaty), the Convention was not applicable since the very rigid criteria laid down in it did not apply to the damage which occurred. This state of affairs was deemed unacceptable by some delegations who wanted the scope of the Convention enlarged.
2. To that end, several delegations proposed that the definition of prohibited damage be specified and expanded; that the threshold of applicability (in particular, the criteria as to *widespread, long-lasting or severe effects*) be lowered and that all serious damage to the environment (and not only that caused by high-tech weapons) be henceforth prohibited by the Convention.
3. Most of the delegations felt that the Convention needed to be adapted to the realities of contemporary conflicts and that the new Convention should include rules on chemical weapons.
4. Several delegations expressed the hope that *research* into environmental modification techniques should henceforth be prohibited.
5. Most of the delegations also thought that the use of *herbicides* should be more closely regulated.
6. Numerous proposals were also made as to implementation of the Convention; thus it was proposed to set up inquiry and monitoring mechanisms and to establish a committee of experts.

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[26] Cf. ENMOD/CONF.II/1 of 10 April 1992: *Report of the Preparatory Committee of the Second Review Conference*.

7. Several delegations also insisted on the importance of prevention by making the Convention's rules as widely known as possible.

8. Several proposals were also made in connection with sanctions, including one that a link be established between violations of the Convention and the concept of international crime.[27]

9. There was unanimous regret that to date so few States (only 55) had agreed to be bound by the Convention.

(c) Results of the Conference[28]

Although consensus[29] was not reached on many substantive proposals, the Conference did however clarify some aspects of the Convention and widen its sphere of application to some extent. Amongst the most encouraging results can be cited:

1. The interpretation given to Article I, according to which "all research and development on environmental modification techniques as well as their use should be dedicated solely to peaceful ends".[30]

2. The reaffirmation of the interpretation whereby — under certain conditions — the use of *herbicides* could be equated with environmental modification techniques prohibited under Article II of the Convention.[31]

3. The establishment of a group of experts to clarify the scope and application of the Convention.[32] This group, whose composition is defined in Article V, para. 2, will have to take into account the work done by the Sixth Committee of the General Assembly and by the ICRC.

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[27] For an analysis of this concept, cf. *Report of the International Commission on the work of its forty-third session*, doc. A/46/10, New York, 1991, pp. 300-302.

[28] Cf. doc. ENMOD/CONF.II/11 of 17 September 1992: *Final Document of the Second Review Conference*, Part II, pp. 9-14.

[29] Cf. Doc. ENMOD/CONF. II/11, Annex IV of 17 September 1992: "Proposals and ideas presented at the Conference which did not enjoy consensus for inclusion in the Final Declaration".

[30] Cf. *Final Document*, p. 11.

[31] *Ibid.*

[32] *Ibid*, p. 13.

(d) Assessment

Despite certain welcome developments, the ENMOD Convention still has its weak points, in particular its extremely high threshold of application and the fact that it continues to limit the use of weapons which at times smack of science fiction, but remains helpless in the face of very real threats.

One cannot but agree with the opinion expressed by certain delegations to the effect that the Conference "has demonstrated that all is not well with the ENMOD Convention" and those who deemed that it was necessary "to bring ENMOD into contemporary relevance".[33]

IV. 47th Session of the United Nations General Assembly (autumn 1992)

On 9 December 1991 the 46th Session of the General Assembly concluded its examination of agenda item 140[34] and adopted Decision 46/417. This stated that the General Assembly took note that the protection of the environment would be addressed at the 26th International Conference of the Red Cross and the Red Crescent and requested "the Secretary-General to report to the General Assembly at its Forty-seventh Session on activities undertaken in the framework of the International Red Cross with regard to that issue".

Pursuant to that request, the Secretary-General asked the ICRC to keep him informed of the progress it was making. In reply, the ICRC submitted a detailed report to the 47th Session of the General Assembly.[35]

The report begins by outlining the legal instruments currently in force and then summarizes the work done in recent years to protect the environment in time of conflict. Special stress is placed on the work carried out under the aegis of the ICRC. (See Chapter I above.)

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[33] Statement by Ms. Peggy Mason, head of the Canadian delegation, at the final session on 13 September (pp. 1 and 3). Similar opinions were expressed at the Sixth Committee of the General Assembly by the representatives of Argentina, Austria and Sweden. Cf. Press Release, GA/J/7 of 1 October 1992, Information Department, Information Service, New York.

[34] "Exploitation of the environment as a weapon in times of armed conflict and the taking of practical measures to prevent such exploitation". For a summary of the discussions at the Forty-Sixth Session cf. *Report on the work of the meeting organized by the ICRC* (cf. footnote 12), pp. 14-16.

[35] Cf. Doc. A/47/328 of 31 July 1992, "Protection of the environment in times of armed conflict", Report of the Secretary-General.

From 1 to 6 October 1992, the Sixth Committee (dealing with legal matters) of the General Assembly examined this agenda item. Invited to report to the Committee, the ICRC described the work which it or other organizations had already carried out in this area.

With regard to the law's applicability, the ICRC expressed its conviction that "the true problem does not really lie in the inadequacy of the norms, but in ignorance of or disregard for them"[36] and therefore emphasized the need to find ways of improving dissemination and implementation of the rules of international humanitarian law. In that connection, it welcomed the suggestion by some experts that rules governing the protection of the environment should be included in the *military manuals* of each country.

While stressing the importance and relevance of the existing law, the ICRC did however acknowledge that certain points still required clarification: for instance, customary law and the law applicable in situations of non-international armed conflict needed further analysis.

The ICRC declared its willingness to continue its studies and produce a definitive report in 1993. It announced that a second meeting of experts would be convened to this effect in January 1993, with somewhat expanded composition in order to ensure that the work would reflect even more broadly the concerns of the world at large.

The ICRC was commended for its work and its views were largely shared by the delegations.[37]

While some delegations declared themselves in favour of attempting new codification,[38] the majority of speakers pointed to the importance of the applicable law and underscored the need to improve its dissemination, implementation and compliance with it.

The views expressed during the meeting of experts organized by the ICRC (see Chapter I above) and during the Second Review Conference of the ENMOD Convention (see Chapter III above) were thus fully confirmed during the discussions.[39]

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[36] Cf. "Protection of the environment in armed conflicts", statement by the ICRC to the 47th Session of the General Assembly on 1 October 1992.

[37] Cf., in particular, the summary of the statements by the representatives of Jordan, Canada, Argentina, Austria and the United Kingdom (on behalf of the EEC), in *Press Release* GA/J/7 of 1 October 1992, Information Department, Information Service, New York.

[38] Cf. in particular the statement by Argentina on 1 October 1992, *ibid.*

[39] Since various drafts of the resolution are still being negotiated while this article is being written, it is not possible to state precisely what follow-up the General Assembly intends to give to the discussions. From the information available at the moment it would seem that the tendency is towards a resolution inviting States *to accede* to the instruments in force and *to disseminate* as widely as possible (particularly

Conclusion

To end this account of some recent studies on the protection of the environment in time of armed conflict, the following conclusions will be drawn.

By their very number — and the seriousness with which they have been conducted — these studies appear to show that today the international community has fully realized the enormous damage which war can inflict on the environment.

The destructive potential of modern methods of warfare is rendering the need for measures to safeguard the environment more and more evident.

While this new general awareness is to be welcomed, in itself it is not enough. It must now be followed up by practical measures. In this respect — despite certain constructive proposals which will require very close examination — the results of the recent studies are undeniably still inadequate.

Generally speaking, they have led to the conclusion that the existing law, if properly implemented and respected, provided adequate protection. This interpretation still has to be refined and means must be sought of averting damage to the environment, terminating it and punishing those responsible for it.

As indicated above, some such means and mechanisms already exist, whilst others have yet to be found.

In my opinion, emphasis should henceforth be placed on seeking new mechanisms and putting the existing means into effect.

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by having them included in military handbooks). In addition, the ICRC will probably be encouraged to continue its work and to present a report to the 48th session of the General Assembly.

The protection of displaced persons in non-international armed conflicts

by Denise Plattner

I. INTRODUCTION

In recent years a number of institutions, in particular non-governmental organizations, have brought their attention to bear on the plight of people displaced within national borders.[1] Prompted by their interest in the protection of human rights, and in keeping with the charitable nature of their work, they have focused the international spotlight on the situation of those who leave their homes in a context marked by political violence. The international community has thus been made aware of two things simultaneously: first, that countries affected by internal armed conflicts have a large number of displaced persons, and second, that armed clashes often result in large-scale population movements. The displacement of minority communities can even become a deliberate policy.

This sometimes neglected aspect of the suffering engendered by war has now been put on the agenda of multilateral diplomacy.[2] This gives us the opportunity — which it would be remiss of us to pass by — to review the existing law and to promote its implementation.

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[1] For example, the Commission of the Churches on International Affairs and the Friends World Committee for Consultation (Quakers) submitted to the Commission on Human Rights a communication on internally displaced persons (document E/CN.4/1991/N60 1 of 15 December 1990).

[2] Pursuant to the initiative mentioned in footnote 1 above, the 47th session of the Commission on Human Rights adopted resolution 1991/25 on internally displaced persons. At its 48th session the Commission adopted resolution 1992/73, requesting the Secretary-General to collect the views of the governments and the intergovernmental and non-governmental organizations concerned and to report to the 49th session.

II. BACKGROUND

1. The sources of the rules applicable in non-international armed conflicts

As soon as the situation in a country is characterized by continued and organized armed clashes between the legal government and a group of insurgents, or between parties none of which constitute the legal government, the authorities concerned become subject to a number of obligations which are binding under international law. The general purpose of these obligations is to limit the violence and to protect people from any abuse of power by the belligerents. The relevant rules are contained in the branch of international law commonly known as international humanitarian law,[3] which is comprised of one very comprehensive series of rules governing international armed conflicts, and another more summary set of provisions which is applicable in non-international armed conflicts and therefore concerns us here.

The treaty-based rules making up humanitarian law applicable in internal armed conflicts are set forth in two places: Article 3 common to the 1949 Geneva Conventions (GC I-IV Art. 3),[4] which applies in this kind of conflict, and Additional Protocol II (P II),[5] which develops and supplements Article 3.[6]

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[3] The Commentary on the Additional Protocols of 8 June 1977 defines humanitarian law as follows: "the expression **international humanitarian law applicable in armed conflicts** means international rules, established by treaties or custom, which are specifically intended to solve humanitarian problems directly arising from international or non-international armed conflicts and which, for humanitarian reasons, limit the right of Parties to a conflict to use the methods and means of warfare of their choice or protect persons and property that are, or may be, affected by conflict. The expression 'international humanitarian law applicable in armed conflict' is often abbreviated to **international humanitarian law or humanitarian law".** *(Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, Yves Sandoz, Christophe Swinarski, Bruno Zimmermann, eds., ICRC/Martinus Nijhoff Publishers, Geneva, 1987, p. xxvii).

[4] At 30 September 1992, 174 States were party to the four 1949 Geneva Conventions.

[5] At 30 September 1992, 106 States were party to Additional Protocol II (116 were party to Additional Protocol I).

[6] It is generally considered that the level of strife required for common Article 3 to apply is lower than that required for the application of Protocol II (see *Commentary on the Additional Protocols, op. cit.*, p. 1350, para. 4457). Moreover, the definition of armed conflict as set forth in Protocol II requires that one of the parties concerned be made up of government armed forces (Art. 1, para. 1). Thus, if several factions clash without the involvement of the government armed forces, only common Article 3 is applicable (*ibid.*, p. 1351, para. 4461).

Finally, the victims of internal armed conflicts also benefit from the protection of a series of international customary rules, in particular those relating to the methods and means of combat.

2. Differences between international human rights law and international humanitarian law

International humanitarian law is a system of legal rules specially conceived for implementation in the event of prolonged and organized armed clashes, but it in no way supersedes other systems of international rules protecting the individual. Thus, in situations of armed conflict international human rights law and international humanitarian law are applied concurrently. We can nevertheless assert, for a number of reasons, that the provisions of humanitarian law are tailored more specifically to deal with the special problems that arise during armed conflict than are those of human rights law.[7] Indeed, the applicability of international human rights instruments is often suspended during armed confrontations.[8] Of course, the inalienable human rights remain applicable, but the protection they offer would seem to be inferior to that afforded by international humanitarian law.[9] International human rights law contains no rules on the methods and means of combat, meaning that most problems relating to the conduct of hostilities are outside its purview.[10] Humanitarian law contains obligations which are binding on all the belligerents, whereas in principle only States can be held responsible for human rights violations.[11]

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[7] See *inter alia* Marco Sassòli, "Mise en œuvre du droit international humanitaire et du droit international des droits de l'homme: une comparaison", in *Annuaire suisse du droit international*, Vol. XLIII, 1987, p. 51.

[8] For an up-to-date list of the States having declared, extended or cancelled a state of emergency (about 70 since 1 January 1985), see Mr. Leandro Despouy's 5th annual report to the Commission on Human Rights, E/CN.4/Sub.2/1992/23, 6 July 1992.

[9] See *inter alia* Mohamed El Kouhene, *Les garanties fondamentales de la personne en droit humanitaire et droits de l'homme*, Martinus Nijhoff Publishers, Dordrecht, 1986, p. 145.

[10] See Absjørn Eide, "The laws of war and human rights. Differences and convergences", in *Studies and essays on international humanitarian law and Red Cross principles, in honour of Jean Pictet*, Christophe Swinarski ed., ICRC/Martinus Nijhoff Publishers, Geneva, 1984, p. 690.

[11] See Theodor Meron, *Human rights and humanitarian norms as customary law*, Clarendon Press, Oxford, 1989, pp. 155-171.

Finally, the mechanisms for monitoring compliance with humanitarian rules require the appropriate organizations to have access to protected persons on a regular basis, essentially for the purpose of preventing violations.[12] The mechanisms for monitoring respect for human rights, on the other hand, are set in motion only when individuals or third States approach the UN or any other agency having jurisdiction in the matter under the human rights treaties. This point constitutes a significant difference between the two branches of law.[13]

III. CONTENT OF THE PROTECTION OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN NON-INTERNATIONAL ARMED CONFLICTS

The rules applicable in non-international armed conflicts may be divided into three categories: those that protect the victims from the effects of hostilities; those that protect them from any abuse of power by the belligerents; and those that require certain activities to be undertaken in favour of non-combattants or persons *hors de combat.*

1. Protection from the effects of hostilities

The rules affording protection from the effects of hostilities are those that govern the means and methods of combat. As concerns non-international armed conflicts, it is worth refreshing our memory on a number of points.

Article 3 common to the Geneva Conventions contains no rules specifically governing the conduct of hostilities.[14] Consequently, when the State involved is not a party to Protocol II, the belligerents must rely essentially on the rules of customary law for the definition of their duties during military operations. The same holds true if the conflict has not yet reached the level of intensity required for the application of Protocol II.[15]

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[12] See Sassòli, *op. cit.*, p. 53.

[13] See Eide, *op. cit.*, p. 697.

[14] Common Article 3 is nevertheless applicable to military operations, even though the solutions it offers are very limited. See Robert Kogod Goldmann, "International humanitarian law and the armed conflicts in El Salvador and Nicaragua", *The American University Journal of International Law and Policy*, Vol. 2, No. 2, Fall 1987, p. 547.

[15] See note 6 above.

The rules in Protocol II relating to military operations (Part IV) may be few in number, but their importance should not be underestimated as Protocol II,[16] for example, bans attacks on the civilian population,[17] prohibits the starvation of the civilian population[18] and attacks on objects indispensable to its survival,[19] and Article 17 prohibits the displacement of the civilian population unless the security of the civilians involved or imperative military reasons so demand.[20] However, international law in no way leaves the belligerents free to launch attacks causing disproportionate losses among the civilian population,[21] to use weapons causing superfluous injury[22] or having indiscriminate effects, such as chemical or bacteriological weapons,[23] or to lay mines indiscriminately.[24] All these practices are prohibited by rules which have not yet been formally codified in respect of internal armed conflicts. Since such practices are at the root of most of the population displacements occurring today,[25] there can be no doubt that the relevant rules should be promoted as a matter of urgency.

2. Protection against abuse of power

The provisions affording protection against abuse of power cover the conditions of internment or detention of persons deprived of their freedom for reasons connected with the armed conflict,[26] the legal guarantees applicable to the prosecution of offenders and the repres-

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[16] P II, part iv.

[17] P II, Art. 13, par. 2.

[18] P II, Art. 14, first sentence.

[19] *Ibid.*, second sentence.

[20] P. II, Art. 17.

[21] See "Rules of international humanitarian law governing the conduct of hostilities in non-international armed conflicts", *International Review of the Red Cross*, No. 278, September-October 1990, p. 388.

[22] *Ibid.*, p. 389. See also Denise Plattner, "The 1980 Convention on Conventional Weapons and the applicability of the rules governing means of combat in a non-international armed conflict", *IRRC*, No. 279, November-December 1990, p. 554.

[23] "Rules of international humanitarian law governing the conduct of hostilities in non-international armed conflicts", (Note 21), p. 395.

[24] *Ibid.*, p. 395 ff.

[25] See Alain Mourey, "Famine and war", *IRRC*, No. 284, September-October 1991, p. 552; see also the resolution adopted by the Council of Delegates of the International Red Cross and Red Crescent Movement in Budapest on the protection of the civilian population against famine in situations of armed conflict, *IRRC*, No. 286, January-February 1992, p. 57.

[26] P II, Art. 5.

sion of offences committed in connection with the armed conflict,[27] and the rules of conduct to be observed in all circumstances by civilian officials and members of the armed forces with regard to non-combatants or persons *hors de combat* under their authority.[28] All these rules are very similar to the norms of international human rights law in terms of both content and the problems they deal with. They cannot, however, be fully implemented as complementary branches of international law if the State concerned has invoked the derogation clause contained in human rights treaties.[29]

The injunctions imposed by international humanitarian law on the civilian and military authorities are numerous and specific.[30] Common Article 3 and Additional Protocol II expressly prohibit twenty-three different acts, ranging from murder and torture to the threat of indecent assault.[31] Types of behaviour other than those expressly prohibited can also be considered to be implicitly forbidden by the general obligation of humane treatment set forth in both instruments.[32]

In respect of displaced persons, these rules are as important as those governing the means and methods of combat. Indeed, the harassment of civilians is another frequent cause of population movements.[33]

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[27] GC I-IV, Art. 3 (1.d), and P II, Art. 6.

[28] *Inter alia* GC I-IV, Art. 3 (1), and P II, Art. 4.

[29] See note 8 above.

[30] These are injunctions with which the civilian and military authorities must comply, no matter what the circumstances, with regard to any person under their authority (see footnote 28 above).

[31] The following are expressly prohibited: killing (GC I-IV Art. 3.1(a), P II, Art. 4.2(a)); summary executions (GC I-IV Art. 3.1(a) and (d)), P II, Arts. 4.2(a) and 6.2); physical and mental torture, mutilation and corporal punishment (GC I-IV Art. 3.1(a), P II, Art. 4.2(a)); rape, enforced prostitution and indecent assault (GC I-IV Art. 3.1(c), P II, Art. 4.2(e)); pillage (GC I-IV Art. 3.1, P II, Art. 4.2(g)); collective punishment (GC I-IV Art. 3.1, P II, Art. 4.2(b)); the taking of hostages (GC I-IV Art. 3.1(b), P II, Art. 4.2(c)); acts of terrorism (GC I-IV Art. 3.1, P II, Art. 4.2(d)). It is also prohibited to threaten protected persons with any of the above acts (GC I-IV Art. 3.1, P II, Art. 4.2(h)).

[32] The obligation to respect person, honour and convictions and religious practices (GC I-IV Art. 3.1, P II, Art. 4.1), and the prohibition on inflicting or threatening to inflict any form of humiliating or degrading treatment other than that expressly prohibited (GC I-IV Art. 3.1(c), P II, Art. 4.2(e) and (h)) constitute the principal aspects of the general obligation to treat non-combatants or persons *hors de combat* humanely (GC I-IV Art. 3.1, P II, Art. 4.1). Moreover, by virtue of the prohibition of adverse distinction set forth in P II, Art. 4.1 and defined in detail in common Article 3 ("adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria"), discriminatory treatment is also contrary to the obligation of humane treatment.

[33] See "Respect for international humanitarian law — ICRC review of five years of activity (1987-1991)", in *IRRC*, No. 286, January-February 1992, p. 83.

Moreover, such harassment does not necessarily end with displacement; only the tormentors' faces change. Here again, the existing rules must be well known and widely disseminated.

3. Norms concerning care and relief activities

The international rules applicable in internal armed conflicts provide for and govern the provision of services for those who are not or are no longer participating in the hostilities.

As concerns the sick and wounded, both civilian and military, the rules stipulate in particular that they must be collected and cared for,[34] that medical personnel[35] and facilities[36] are to be protected against military operations, and that medical personnel and facilities regarded as such under the law[37] are to be identified by means of the red cross or red crescent emblem.[38]

As concerns the civilian population in general, a category which includes civilian sick and wounded, the rules provide that if essential supplies are lacking, the State concerned must agree to the mounting of relief operations which are humanitarian, impartial and conducted without distinction.[39] From the legal point of view, this means that the State would be violating international law were it to prevent people whose lives and health were seriously threatened from receiving assistance from an international organization, in so far as such assistance is provided in a manner in keeping with the aim of humanitarian law.[40]

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[34] GC I-IV Art. 3.2, P II, Arts. 7 and 8.

[35] P II, Art. 9; see also "Rules of international humanitarian law governing the conduct of hostilities in non-international armed conflicts", (Note 21), p. 391.

[36] P II, Art. 11; see also Note 21, p. 391.

[37] For the definition of medical personnel, see *ibid.*, p. 392. Medical facilities comprise medical units and medical means of transport; for their definition, see *Commentary on the Additional Protocols, op. cit.* p. 1433, paras. 4711 and 4712.

[38] P II, Art. 12.

[39] P II, Art. 18.2.

[40] On this subject, see the series of articles on humanitarian assistance which appeared in *IRRC*, No. 288, May-June 1992, in particular: Yves Sandoz, "*'Droit' or 'devoir d'ingérence'* and the right to assistance: the issues involved", p. 220; Maurice Torrelli, "From humanitarian assistance to 'intervention on humanitarian grounds'?", p. 246; Denise Plattner, "Assistance to the civilian population: the development and present situation of international humanitarian law", p. 262. See also Cornelio Sommaruga, "Assistance to victims of war: international humanitarian law and humanitarian practice", p. 376, and Frédéric Maurice, "Humanitarian ambition", p. 369, in *IRRC*, No. 298, July-August 1992.

IV. IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN NON-INTERNATIONAL ARMED CONFLICT

1. The agents of implementation and their specific roles

(a) Humanitarian organizations

At present, international organizations are supplying vast quantities of aid to persons displaced in situations governed by international humanitarian law. These are usually specialized institutions or agencies set up by the United Nations General Assembly, such as UNICEF,[41] UNHCR,[42] UNDP[43] and the WFP,[44] or non-governmental organizations such as *Médecins sans frontières*, Oxfam and the Save the Children Fund.[45]

The ICRC, for its part, has 52 delegations working in 80 countries. In 1991, more than 80% of its field budget (610 million Swiss francs) was allocated to protection and assistance activities for civilians, in particular displaced persons and refugees.[46]

The question which springs to mind is whether or not all this aid is provided within the legal framework established by the humanitarian rules.

The answer is in the affirmative, if the assistance is supplied in response to the humanitarian problems that the rules are intended to solve.[47] In this sense, assistance furnished by the ICRC or by any other operational organization respecting the principles of humanitarian aid

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[41] The United Nations Children's Emergency Fund, whose mandate is to assist children, has been particularly active in Sudan.

[42] Among the assistance activities undertaken by the office of the United Nations High Commissioner for Refugees are those carried out in Iraqi Kurdistan and in the former Yugoslav republics.

[43] The United Nations Development Programme's operation in Mozambique, undertaken in cooperation with the government, is an example of this agency's work in war-torn countries.

[44] In September 1992, for example, the World Food Programme and the ICRC embarked on a joint 100-day relief operation in Somalia.

[45] MSF and the Save the Children Fund are active in Somalia, for example; they are also present in Mozambique, as are Oxfam and many other non-governmental organizations.

[46] Frédéric Maurice, *The ICRC's work to assist civilian refugees and displaced persons — an operation-by-operation description 1991*, January 1992, p. 2 (paper available from the ICRC).

[47] See Jovica Patrnogic, "The evolution of the right to assistance — concluding statement", in the Institute of International Humanitarian Law's report on the XVIIth Round Table on problems of humanitarian law (San Remo, 2-4 September 1992). See *infra*, pp. 592.

distributed impartially and without discrimination must be considered as having been provided in compliance with humanitarian law.[48] The ICRC has a specific role in that it focuses on the most urgent needs, operates in conflict zones, and conducts medical activities for the victims of war.[49] Assistance intended to promote the country's development is not, of course, within the scope of humanitarian law. The same question may be asked about assistance provided by non-operational intergovernmental organizations, since the use to which it is put is monitored in a way which is incompatible with an armed conflict situation.

(b) United Nations organs

The United Nations evinces its concern regarding armed conflicts not only by providing assistance, but also in resolutions adopted by UN organs and calling for compliance with international humanitarian law.[50] These resolutions reflect the different mandates set forth in the United Nations Charter, i.e. for the Security Council, to safeguard international peace and security, and for the other bodies, their mandates with respect to human rights. While the Security Council resolutions on Iraqi civilians[51] and Somalia[52] do not mention humanitarian law, some of the resolutions adopted by the Commission on Human Rights are more explicit in that regard.[53]

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[48] See letter (a) of the General Conclusion on International Protection adopted by the 43rd session of the Executive Committee of the High Commissioner's Programme (5-9 September .1992), according to which the UNHCR assumes its responsibilities "within the framework of international refugee law and applicable regional instruments, with due regard for human rights and humanitarian law" (see the Report on the 43rd Session of the UNHCR Executive Committee, A/AC.96/8041, of 15 October 1992).

[49] Frédéric Maurice and Jean de Courten, "ICRC activities for refugees and displaced civilians", *IRRC*, No. 256, January-February 1991, pp. 14 and 18.

[50] During the Gulf war, international humanitarian law was mentioned in Security Council resolution 666 of 13 September 1990, and subsequently in resolutions 670 and 674, to mention only the first 12 resolutions. In connection with the former Yugoslavia, at 31 October 1992 humanitarian law had been referred to in resolution 764 of 13 July 1992, resolution 771 of 13 August 1992, and resolution 780 of 6 October 1992.

[51] Security Council resolution 688 of 5 April 1991 condemned the repression of the Iraqi civilian population and insisted that Iraq "allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations".

[52] See resolutions 733 of 23 January 1992, 746 of 17 March 1992, 751 of 24 April 1992 and 767 of 24 July 1992 (at 31 October 1992).

[53] See, for example, resolutions 1987/51, 1988/65, 1989/68, 1990/77 and 1991/75 adopted by the Human Rights Commission on the human rights situation in El Salvador, which referred to common Article 3 and to Protocol II.

The United Nations organs and the ICRC do not, however, work for compliance with humanitarian law in the same way. The ICRC's mandate stems from humanitarian law itself, and only humanitarian law can define the criteria that govern the ICRC's endeavours to promote compliance with its provisions.[54]

(c) The States

A non-international armed conflict is an internal affair of the State concerned, so that State can invoke the principle of non-interference to oppose third-party interventions intended to promote implementation of the relevant international rules. Article 1 common to the Geneva Conventions nevertheless provides that States have the duty to ensure respect for humanitarian law, and the International Court of Justice considers that this duty obtains with respect to non-international armed conflicts as well.[55] Only an obligation to refrain from certain acts — such as those which would encourage violations of humanitarian law — has been inferred from this, but Article 1 should also be construed as imposing active obligations.[56] In any case, it entitles third-party States to take steps to promote respect for humanitarian law on the part of authorities faced with a non-international armed conflict. They must exercise this right, however, in accordance with international law, and must not do anything incompatible with the objective pursued.[57]

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[54] The Statutes of the International Red Cross and Red Crescent Movement, adopted by the States and the Movement's components as members of the International Conference of the Red Cross and Red Crescent, require the ICRC to work for the faithful application of international humanitarian law and to ensure the protection of and assistance to military and civilian victims of armed conflicts. In so doing, the ICRC must honour the principle of impartiality (Art. 5, paras. 2(c) and 2(d) of the Movement's Statutes; for the complete text, see *IRRC*, No. 256, January-February 1987, p. 25 ff.).

[55] Judgment of the International Court of Justice in the case of military and para-military activities in and against Nicaragua, ICJ, *Reports of Judgments, Advisory Opinions and Orders*, The Hague, 1986, p. 104, para. 220.

[56] See Luigi Condorelli and Laurence Boisson de Chazournes, "Quelques remarques à propos de l'obligation des Etats de 'respecter et faire respecter' le droit international humanitaire 'en toutes circonstances'", in *Studies and essays on international humanitarian law and Red Cross principles*, (Note 10), p. 26 ff.

[57] As concerns in particular the fact that Article 1 common to the Geneva Conventions cannot serve as grounds for an armed intervention, see Yves Sandoz, "L'intervention humanitaire, le droit international humanitaire et le Comité international de la Croix-Rouge", in *Annales du droit international médical*, No. 33, 1986, p. 35, and, by the same author, "'Droit' or 'devoir d'ingérence' and the right to assistance: the issues involved", (Note 40), p. 230; see also Kamen Sachariew, "States' entitlement to take action to enforce international humanitarian law", *IRRC*, No. 270, May-June 1989, p. 192, and Nicolas Levrat, "Les conséquences de l'engagement pris

In principle, humanitarian law does not discourage States from undertaking relief operations on the territory of another State.[58] The possibility is even explicitly provided for in the case of territory occupied by a foreign power.[59] In this event, however, the distribution of relief consignments must be supervised by a neutral entity.[60] This is probably the only way a government can make sure that the relief operation serves only humanitarian ends and will therefore not weaken its military and political position.

(d) The ICRC

In the light of the above, it is clear that the ICRC is both an operational organization and one which safeguards respect for the international rules applicable in non-international armed conflicts. This dual role was conferred on it many years ago by the States, and confirmed by the 1949 Geneva Conventions in the event of international armed conflicts.[61]

The situation as concerns non-international armed conflicts is as follows. The Statutes of the International Red Cross and Red Crescent Movement require the ICRC to assist the victims of armed conflicts, no matter who they are, and to work for the faithful application of humanitarian law.[62] Article 3 common to the Geneva Conventions authorizes the ICRC to negotiate with the governments concerned to that end.[63] In fact, the ICRC is present on the scene of almost every

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par les Hautes Parties contractantes de 'faire respecter' les conventions humanitaires", in *Implementation of international humanitarian law*, Frits Kalshoven and Yves Sandoz, eds., Martinus Nijhoff Publishers, 1989, pp. 263-296 and 289.

[58] In this regard, Article 5 of the resolution on the protection of human rights and the principle of non-intervention in the internal affairs of States, adopted on 13 September 1989 by the Institute of International Law, refers to "an offer by a State, a group of States, an international organization or an impartial humanitarian body such as the International Committee of the Red Cross (ICRC), of food or medical supplies..." (*Yearbook of the Institute of International Law*, 1990, Vol. 63, Part II, pp. 344-345).

[59] GC IV, Art. 59.2.

[60] GC IV, Art. 61.1.

[61] The ICRC is entitled to visit prisoners of war (GC III, Art. 126) and civilian persons protected by the Fourth Geneva Convention (GC IV, Art. 143). It can act as a substitute for the Protecting Power (GC I-IV, Arts. 10, 10, 10 and 11 resp., and P II, Art. 5). As concerns its role in relief operations, see GC IV, Arts. 23, 59 and 61, and P I, Art. 70. Finally, GC I-IV, Arts. 9, 9, 9 and 10 respectively and P I, Art. 81 give the ICRC a right of humanitarian initiative in international armed conflicts.

[62] See note 54 above.

[63] Paragraph 2 of common Article 3 in fact provides that the ICRC "may offer its services to the Parties to the conflict", thus expressing a right of humanitarian initiative applicable in non-international armed conflicts. See Yves Sandoz, "Le droit d'initiative

internal conflict worldwide, although the terms and conditions of its activities naturally vary with the circumstances.[64]

2. The difficulties of implementing international humanitarian law

(a) Monitoring the implementation of international humanitarian law

Studies conducted on the situation of persons displaced within national borders have often revealed the absence of any mechanism to ensure compliance with existing rules of law. Indeed, in situations of non-international armed conflict what the written law confers on the ICRC is essentially the power to negotiate. Fortunately, in practice States have gone much further and allowed the ICRC to operate in conflict zones, not least because they have an interest in seeing that people not taking part in the hostilities are treated humanely.

It must be borne in mind that the mechanisms for the implementation of international humanitarian law, which for the time being are codified for international armed conflicts only, are mainly preventive in purpose.[65] This also explains the confidential nature of the ICRC's findings. While the mechanisms provided for in the Geneva Conventions cannot be applied as they stand to situations of internal armed conflict, their main features can be preserved. Indeed, the ICRC has increasingly tended to submit to the authorities concerned, with their agreement, reports on the protection of the civilian population.[66] This

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du Comité international de la Croix-Rouge", *German Yearbook of International Law*, Vol. 22, 1979, pp. 364 ff.

[64] See "Respect for international humanitarian law: ICRC review of five years of activity (1987-1991), *op. cit.* In the section on humanitarian law in internal conflicts, the ICRC refers to its activities in the following countries: Sri Lanka, Afghanistan, Mozambique, Uganda, Rwanda, El Salvador, Nicaragua, Yugoslavia, Angola, Ethiopia, Sudan, Somalia, Liberia, Lebanon, Cambodia and Myanmar. For a relatively recent and detailed description of ICRC activities for refugees and displaced persons, see Frédéric Maurice, *The ICRC's work to assist civilian refugees and displaced persons, op. cit.*

[65] See note 12 above.

[66] See the ICRC's *1991 Annual Report*, the sections on El Salvador (p. 52) and the Philippines (p. 73). In the same publication, see ICRC activities for the protection of civilians in Liberia (p. 25), Uganda (p. 33), Rwanda (p. 34), Sudan (p. 38), Peru (p. 55) and Colombia (p. 57).

practice should be extended, since it has often led to tangible improvements.

(b) The difficulties involved in providing assistance

Public opinion, alerted by the media, is very much aware of the difficulties encountered in providing assistance in certain situations.[67] From the legal point of view, any refusal to allow or hamper an external aid operation must be regarded as a violation on a par with other acts which are contrary to the law and which are often committed concurrently.[68] Assistance and protection are therefore two sides of the same coin. On the other hand, no matter what the legal provisions, governments will always require serious guarantees before they agree to allow relief supplies to be distributed to the enemy side.[69] Moreover, a party which is not the internationally recognized government may well have just as much difficulty in agreeing to relief operations over which it has no control. Military protection for humanitarian aid would in itself give rise to problems of image only, if the parties concerned were truly willing to respect it. The question must be put above all in terms of effectiveness.

V. CONCLUSION

To conclude we have seen that there is a whole series of rules and mechanisms which should play a decisive role in preventing population movements in situations of non-international armed conflict. The implementation of these mechanisms depends first and foremost on the

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[67] These difficulties notwithstanding, we should remember the following assistance operations for civilians conducted by the ICRC in 1991 (see *1991 Annual Report*): on both sides of the front lines in Angola (p. 17) and Mozambique (p. 20); in Liberia, including NPLF zones (p. 25); in conflict zones in Uganda (p. 33); in Rwanda, where it intervened to prevent the grouping of displaced people in overcrowded camps (p. 34); in both government and SPLA-controlled areas in southern Sudan, where it brought in and distributed thousands of tonnes of food (p. 39); in Sri Lanka, where it brought in 79,000 tonnes of food by sea and land (p. 76); and in Yugoslavia, where from November to December 1991 ICRC ships plied the coast to help civilians cut off by the fighting (p. 90).

[68] See Cornelio Sommaruga, "Assistance to victims of war", (Note 40), p. 374.

[69] See Article 70, para. 3, of Additional Protocol I, applicable to international armed conflicts. For the definition of "the parties concerned" mentioned in the first paragraph of the same article who can have recourse to the facilities provided for in paragraph 3, see *Commentary on the Additional Protocols, op. cit.*, p. 819, para. 2806. It is hardly likely that the party to benefit from an offer to provide relief would be opposed to it.

political will of the parties to the conflict. All the bodies we have mentioned can play a role in accordance with their respective mandates.

Denise Plattner

Denise Plattner has been a legal adviser at the ICRC Legal Division since 1991. She has published the following articles in the *International Review of the Red Cross*: "Protection of children in international humanitarian law", No. 240, May-June 1984; "The penal repression of violations of international humanitarian law applicable in non-international armed conflicts", No. 278, Sept.-Oct. 1990; "The 1980 Convention on Conventional Weapons and the applicability of rules governing means of combat in a non-international conflict", No. 279, Nov.-Dec. 1990; and "Assistance to the civilian population: the development and present state of international humanitarian law", No. 288, May-June 1992.

ICRC Assembly members visit Germany

The ICRC Assembly members were in Germany from 30 September to 2 October 1992 to visit the International Tracing Service (ITS) in Arolsen and two sections of the German Red Cross, in Thüringen and Berlin respectively. This was the first time that the Assembly had travelled abroad, apart from a visit to Solferino.

On 30 September Mr. Charles Biedermann, the Director of the ITS, gave the members of the Assembly an overview of the Service's work, showing how important and relevant it still is today.

The International Tracing Service was set up in London in 1943. It is responsible for collecting, classifying and preserving all documents relating to German and other nationals who were persecuted and interned in Nazi concentration camps or labour camps during the Second World War, or to non-Germans displaced as a result of the fighting. This material is processed and made available to the individuals directly concerned.

The ITS employs some 400 people and receives several thousand requests each month. In 1955 its administration was taken over by the ICRC, in its capacity as a humanitarian, neutral and impartial organization.

During their visit to the ITS the members of the ICRC met Botho Prince of Sayn-Wittgenstein-Hohenstein, President of the German Red Cross, and representatives of the local authorities, the Foreign Ministry and the Swiss Embassy in Germany.

The members of the Assembly went to Erfurt on 1 October to visit the Thüringen *Landesverband* (section) of the German Red Cross. After being welcomed by its President, Mr. H. Schlegelberger, they toured a treatment centre for torture victims, a home for adolescent asylum-seekers and a reception centre for refugees. ICRC President Cornelio Sommaruga, accompanied by Assembly members, Mrs. Anne Petitpierre, Miss Francesca Pometta and Mr. Marco Mumenthaler, was received by the *Regierender Bürgermeister* (Mayor) of Berlin and later held a press conference.

Throughout their very full programme of visits the members of the Assembly were impressed by the wide range of activities that the German Red Cross conducts and by the commitment of its staff, both professionals and volunteers. They gained an insight into the problems experienced by the National Society as a result of recent political upheavals and the constant influx of asylum-seekers. The visit to Arolsen demonstrated once again the importance that the ICRC attaches to the ITS.

MISSIONS BY THE PRESIDENT

From September to November 1992 ICRC President Cornelio Sommaruga went on several missions, visiting successively the Republic of Korea, the People's Republic of China, the Democratic People's Republic of Korea, the Council of Europe in Strasbourg, the United Kingdom, Tunisia and the United States.

Republic of Korea, the People's Republic of China, the Democratic People's Republic of Korea (7-19 September 1992)

From 7 to 19 September 1992 Mr. Sommaruga made an official visit to China and to the two Koreas. This was the first time that an ICRC President visited the Democratic People's Republic of Korea.

In each of these countries the President was received by the highest State officials. In China he met the Prime Minister, Mr. Li Peng, the Deputy Minister of Foreign Affairs, Mr. Liu Huagin, and the First Vice-Minister of Justice, Mr. Lu Jian. In the Republic of Korea he met the country's President, Mr. Roh Tae-Woo, the Deputy Prime Minister and Minister of National Unification, Mr. Choi Houng Chol, the Minister of Foreign Affairs, Mr. Lee Sang Ock, and the President of the National Assembly, Mr. Park Jyun Kyh. In the Democratic People's Republic of Korea Mr. Sommaruga was received by President Kim Il Sung and had talks with the Deputy Premier and Minister of Foreign Affairs, Mr. Kim Yong Nam, and the Minister in charge of Legislation, Mr. Sin Hyong Il.

Throughout the talks Mr. Sommaruga insisted on the collective responsibility of States with regard to the application of international humanitarian law, on the need to respect the Red Cross emblem and the importance for the countries concerned to support their respective National Red Cross Societies. He also described the nature and scope of the ICRC's mandate and gave a broad outline of the institution's operational activities throughout the world.

His hosts, for their part, paid tribute to the ICRC's humanitarian activities and confirmed their support for dissemination activities and for the development of their National Societies.

Mr. Sommaruga also addressed a number of more specific issues, such as the problem of separated families and the humanitarian repercussions of that situation, which is still a considerable obstacle in the negotiations between the two Koreas. In that context, Mr. Sommaruga informed the leaders of the two countries of the ICRC's willingness to offer its services as a neutral intermediary and work to resolve the serious problems of a humanitarian nature that have subsisted for decades.

During his stay on the Korean peninsula, the ICRC President went twice to Panmunjom to visit members of the Neutral Nations Supervisory Commission (Czechoslovakia, Poland, Sweden and Switzerland), who spoke to him about their activities and the future of their mission.

While in China, Mr. Sommaruga informed the First Vice-Minister of Justice, the Vice-Minister of Public Security and their close associates of the ICRC's readiness to carry out detention activities if *ad hoc* agreements were concluded beforehand. He also met General Yu Yongbo, Deputy Director of the Armed Forces' Political Department, with whom he discussed the importance of dissemination among the armed forces and the partial or total prohibition of certain weapons. The same questions were raised during a meeting in North Korea with General Kwon Jung Yong, Deputy Chief of Staff of the Armed Forces.

Other topics discussed in North Korea were the ratification of Protocol II and the declaration recognizing the competence of the International Fact-Finding Commission under Article 90 of Protocol I. The latter issue was also raised in talks with the competent officials in South Korea.

In the course of his visit Mr. Sommaruga met high-ranking officials of the three National Societies, with whom he discussed the Movement, relations between the ICRC and the respective National Societies, respect for the emblem, and independence of National Societies. He also visited a number of centres set up or run by the Societies concerned.

In South Korea Mr. Sommaruga received the Great Order of Mugungwa, the highest distinction awarded by the country's National Society, and an honorary doctorate in law from the National University of Seoul.

The mass media in the Republic of Korea showed great interest in President Sommaruga's visit and reported in particular the ICRC's

readiness to act as a neutral intermediary between the two Koreas in settling the question of divided families.

In China, Mr. Sommaruga gave a talk at the Beijing Institute of Diplomacy to about 150 students, professors and experts in international public law on the relevance of international humanitarian law in today's world.

In Pyongyang he gave an interview to State television and a lecture on current problems relating to international humanitarian law and the difficulties encountered by the ICRC in its humanitarian work.

On this visit Mr. Sommaruga was accompanied by Mr. Urs Boegli, Deputy Delegate General for Asia, and by Mr. Christophe Swinarski and Mr. Denis Allistone, regional delegates based in Hong Kong.

Strasbourg (7 October)

On 7 October Mr. Sommaruga was in Strasbourg, where he had been invited to address the autumn plenary session of the Assembly of the Council of Europe. He was accompanied by Mr. Zidane Méri-boute, deputy head of the International Organizations Division, Mr. Jean-Jacques Frésard, of the Department of Operations, Mr. Paul-Henri Morard, head of the Press Division, and Mr. Dominique Buff, assistant to the President.

This was the first time that the president of an international humanitarian organization had been invited, with all the honours shown to a head of State, to address a plenary session of the Assembly of the Council of Europe.

The Assembly first heard a report on ICRC activities, presented by Swiss parliamentarian Michel Flückiger, Chairman of the Committee on Migrations, Refugees and Demography, and then the opinion of the Committee on Legal Affairs and Human Rights, presented by Mr. Amaral, a Portuguese parliamentarian, on questions dealing with humanitarian assistance. In his address, Mr. Sommaruga emphasized the many years of excellent cooperation between the Council of Europe and the ICRC, and mentioned numerous Council resolutions relating to the development of international humanitarian law and various recommendations on the activities of the ICRC.

Drawing the Assembly's attention to the scale of the conflict in Bosnia-Herzegovina and to serious and repeated breaches of international humanitarian law by the parties involved, Mr. Sommaruga stressed the urgent need for the 174 States party to the Geneva

Conventions to respect and ensure respect for humanitarian law in all circumstances. He then spoke about the right of victims to humanitarian assistance, the need for a concerted humanitarian approach and the importance of excluding political considerations from humanitarian issues. Mr. Sommaruga also stressed the problem of financing ICRC operations and replied to a number of questions addressed to the ICRC.

On the whole, the parliamentarians showed support for the views expressed by the ICRC President and stressed the need for their respective governments to give more generous support, especially financial, to the ICRC. The Assembly adopted the report of the Committee on Migrations, Refugees and Demography, and a resolution in support of the ICRC.

While in Strasbourg, Mr. Sommaruga also had talks with the President of the Assembly, the Secretary General of the Council of Europe and the Deputy Chairman of the Committee of Ministers, and gave a press conference.

London (8-9 October 1992)

On his visit to London on 8 and 9 October 1992, the ICRC President was accompanied by Mr. Harald Schmid de Grüneck, head of the Financing Division of the Communications and External Resources Department.

On arrival Mr. Sommaruga was greeted by Lady Limerick, President of the British Red Cross. During his visit, he reviewed various issues of common concern with high-ranking officials from a number of ministries.

With Mr. David Omond, Under Secretary of State at the Ministry of Defence, Mr. Sommaruga discussed the possible ratification of the Protocols, the problem of new weapons technologies, and the introduction of courses on humanitarian law into teaching programmes given by the United Kingdom to the armed forces abroad, and in Africa in particular.

A lengthy working meeting was held with high-ranking officials from the Foreign and Commonwealth Office, the Overseas Development Agency and the British Red Cross. During the meeting, which was chaired by Baroness Chalker, Minister for Overseas Development, the discussion ranged from the ICRC's policy for the recruitment of field personnel, National Society activities as part of ICRC operations, relations with the International Federation of Red Cross and Red Cres-

cent Societies, strengthening of National Societies in developing countries, multilateral dialogue with States party to the Geneva Conventions, and financing of the ICRC.

Mr. Sommaruga's talks with Mr. Paddy Ashdown, leader of the Liberal Democrats, and Mr. Russell Johnstone, Deputy Chairman of the Liberal Group at the Parliamentary Assembly of the Council of Europe, centred on the situation in the former Yugoslavia, and in particular on the policy of "ethnic cleansing", the problem of detainees and the recent agreement on their release and possible transfer.

At the headquarters of the British Red Cross, the ICRC President took part in a working meeting chaired by Lady Limerick and attended by a number of National Society officials. During the meeting the question of financial support for the ICRC by the British Red Cross was discussed, as were ratification of the Protocols by the British government, the plan to hold an international meeting in 1993 on respect for international humanitarian law, the October 1993 meeting of the Council of Delegates in Birmingham, and problems relating to the use of the emblem.

Tunisia (30 October - 3 November)

The ICRC President was in Tunisia from 30 October to 3 November 1992. During his visit he was received by the country's President, Mr. Ben Ali, by the Minister of Foreign Affairs, Mr. Habib Ben Yahia, the Minister of National Defence, Mr. Abdel Aziz Ben Dhia, the Minister of Justice, Mr. Sadok Chaabane, and the Minister of Public Health, Mr. Dali Al-Jezi. He also had talks with leaders of the Tunisian Red Crescent and with the Minister of Public Health officially inaugurated the exhibition "Humanity in the midst of war".

In his talks with the Head of State, Mr. Sommaruga reiterated the ICRC's readiness to visit all persons detained in Tunisia. On this point, Mr. Ben Ali suggested that the ICRC study the possibility of contributing to the process of rehabilitation and reintegration of prisoners. Mr. Sommaruga also expressed the hope that the Tunisian government would recognize the competence of the International Fact-Finding Commission.

These two issues were also discussed with the Ministers of Justice and Foreign Affairs.

The Minister of Defence, for his part, accepted the ICRC's offer to give courses on international humanitarian law as part of the

training of officers in Tunisia and elsewhere in North Africa. Seminars are being planned for 1993.

In his talks with the various officials Mr. Sommaruga reviewed the ICRC's activities worldwide and in Tunisia in particular, called for greater compliance with humanitarian law and raised the question of ICRC financing. He also expressed the hope that the governing bodies of the Tunisian Red Crescent would work on strengthening the National Society's operational capacity.

In the course of his visit, Mr. Sommaruga gave a talk entitled "Respect for international humanitarian law: a constant challenge" at the *Ecole nationale d'administration* in Tunis. He also met the President of the Arab Institute for Human Rights, the Vice-President of the Tunisian League for Human Rights, and Ambassador Rashid Driss, President of the High Committee for Human Rights and Fundamental Freedoms.

Lastly, in Tunis Mr. Sommaruga attended the opening ceremony of the African preparatory meeting for the United Nations World Conference on Human Rights, where he met several ministers and high-ranking officials, including Mr. Salim Ahmed Salim, OAU Secretary-General. Mr. Sommaruga concluded his mission by giving a press conference, which was attended by about 30 journalists from Tunisia and abroad.

New York (8-11 November)

On 10 November the ICRC President was invited to take part in a round table on humanitarian matters, organized as part of the work of the Third Commission of the United Nations General Assembly. The other participants were Mrs. Sadako Ogata, United Nations High Commissioner for Refugees, Mr. Jan Eliasson, United Nations Under Secretary-General for Humanitarian Affairs, and Mr. Erich Kussbach, President of the International Fact-Finding Commission.

Mr. Eliasson spoke about humanitarian intervention and the delicate balance that had to be struck between solidarity with victims and respect for national sovereignty. Speaking about the situation in the former Yugoslavia, Mrs. Ogata stated that an international presence was the best possible form of protection.

Referring to recent conflicts, Mr. Sommaruga deplored the fact that despite numerous representations, appeals and statements, serious breaches of international humanitarian law were occurring daily. He felt that it was urgent for the international community to participate

actively in ensuring respect for international humanitarian law. One of the proposals put forward in this connection, namely that Switzerland should convene an *ad hoc* conference, was currently being studied. The President also stressed the importance of impartial humanitarian assistance in increasingly politicized contexts. He expressed satisfaction at the adoption of Security Council resolution 780, which provides for a commission of enquiry to be set up to investigate grave violations of international humanitarian law in the former Yugoslavia, and said that he hoped that this would be a decisive step towards generalized repression of serious breaches.

The discussion that followed centred on the militarization of humanitarian assistance and the principle of armed intervention in cases where the belligerents' attitude endangers the population of entire countries. The participants agreed that there were no hard and fast rules in that respect and that solutions had to be found on a case-by-case basis. In the course of the discussion, Mr. Sommaruga replied to many questions put to him by the delegates attending the work of the Third Commission.

The four participants in the round table gave a press conference, summing up the main points of their discussion for the numerous journalists present.

Mr. Sommaruga also met the United Nations Secretary-General, Mr. Boutros Boutros-Ghali, with whom he discussed non-compliance with humanitarian law in current conflicts, the difficulties facing United Nations operations, the problem of mines, and the means of protecting relief workers and humanitarian aid.

During his visit Mr. Sommaruga met members of the Humanitarian Liaison Working Group, which brings together ambassadors of major donor countries, and of the United Nations Security Council. In his discussions he informed them about the difficulties encountered by the ICRC in discharging its mandate, and sought greater support for the institution's activities. The ICRC President was also the guest of the United Nations television programme "World Chronicle".

Throughout his meetings with diplomats and representatives of the media, Mr. Sommaruga stressed the ICRC's current areas of priority, namely its protection and assistance activities in Somalia and in Bosnia-Herzegovina. He also pointed out that the military dimension of relief operations in those two cases could be no more than an exceptional and temporary measure, that it was dangerous for humanitarian operations to take on political overtones, and that humanitarian action cannot be a substitute for political efforts in seeking solutions to current crises.

THIRD PANAFRICAN CONFERENCE OF RED CROSS AND RED CRESCENT SOCIETIES

(Mbabane, Swaziland, 28 September - 2 October 1992)

The Third Panafrican Conference of Red Cross and Red Crescent Societies was held in Mbabane, the capital of Swaziland, from 28 September to 2 October 1992. Jointly organized by the Baphalali Swaziland Red Cross and the International Federation of Red Cross and Red Crescent Societies, the Conference was attended by 130 delegates from African National Societies and donor National Societies in Europe, Asia and the Americas. The ICRC, invited as an observer, was represented by Mr. Claudio Caratsch, Vice-President; he led the delegation, which consisted of Mr. Jacques Forster, member of the Executive Board, Mr. Olivier Dürr, Head of the Division for Principles and Relations with the Movement, Mr. Edmond Corthésy, Deputy Delegate General for Africa, Mr. Henry Fournier, Regional Delegate to Harare, and Mr. Hassan Ba, from the Cooperation and Dissemination Division.

The Conference was convened to examine humanitarian requirements in Africa and draw up an agenda for African National Societies for the '90s, in the context of the Federation's Strategic Work Plan.

The opening ceremony was chaired by His Majesty King Mswati III, Patron of the Baphalali Swaziland Red Cross. In his address he paid fervent tribute to the Red Cross and Red Crescent Societies in their work to help the victims of natural and man-made disasters. Mr. Mario Villarroel Lander, President of the Federation, and Mr. Claudio Caratsch also gave keynote speeches.

The delegates then split up into three commissions dealing with development, relief and health. A working group was set up on international humanitarian law.

In concluding its work, the Conference mapped out an "African response" to the Federation's strategic goal for the 1990s and set a three-year time frame for its achievement. The response is essentially geared to identification of the most vulnerable groups of the population and their needs. To this end, the participants at the Conference undertook to step up their planning and activities in the fields of relief, development and health. The response will also rely heavily on increased self-sufficiency of National Societies, regional cooperation and the reinforcement of the Federation's delegations for its success.

Among the tasks set African Societies for the next three years are:

— the establishment of a national disaster preparedness plan and the upgrading of the training of relief personnel;

— the implementation of a comprehensive primary health care programme in at least one vulnerable community;

— the incorporation of AIDS-control activities into primary health care programmes;

— the upgrading of first-aid training;

— the preparation of national development plans and their accompanying framework for development cooperation; and the increased involvement of the most vulnerable groups — especially women and youth — in strengthening operational capacities.

The Conference noted that assistance to the victims of conflicts in Africa was often seriously impeded and called on National Societies to use their influence with governments to promote respect for international humanitarian law, whether by urging them to accede to the Additional Protocols or by highlighting the need to apply and ensure application of that law.

Concerned at the repeated violations of human rights in Somalia and in Bosnia-Herzegovina, the Conference likewise called upon the international community and parties concerned to take measures to stop these violations, to ensure respect for human rights and international humanitarian law, and to assist the victims.

The delegates lastly set up a Committee, to be chaired by the President of the Baphalali Swaziland Red Cross, Mr. M. T. Mthethwa, to monitor the follow-up to the Conference's decisions. The next Conference, in four years' time, will be hosted by the Uganda Red Cross.

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Following the Panafrican Conference, the Executive Council of the Federation met on 5 and 6 October under the chairmanship of Mr. Mario Villarroel Lander. In one of its key decisions, *Mr. George Weber*, Secretary General of the Canadian Red Cross, was selected as Acting Secretary General of the Federation. His name will accordingly be put forward by the Executive Council to the General Assembly when it appoints a Secretary General in October 1993. Until Mr. Weber takes up his post on 1 January 1993, Mr. Stephen Davey will continue to serve as Secretary General in charge.

Recognition of the Antigua and Barbuda Red Cross Society

At its meeting on 4 November 1992, the International Committee of the Red Cross announced the recognition of the ***Antigua and Barbuda Red Cross Society*** (West Indies).

This recognition, which took effect the same day, brings to **153** the number of National Societies which are members of the International Red Cross and Red Crescent Movement.

XVIIth Round Table of the International Institute of Humanitarian Law

(San Remo, 2-4 September 1992)

The XVIIth Round Table on Current Problems of International Humanitarian Law, organized by the International Institute of Humanitarian Law (IIHL), took place in San Remo from 2 to 4 September 1992.

Placed under the auspices of the International Committee of the Red Cross, the United Nations High Commissioner for Refugees, the United Nations Human Rights Centre, the International Organization for Migration and the International Federation of Red Cross and Red Crescent Societies, the meeting was attended by 120 participants, including the representatives of some fifteen National Red Cross and Red Crescent Societies, academics and representatives of diplomatic missions and non-governmental organizations.

The ICRC was represented at the Round Table by Mr. Yves Sandoz, a member of the Executive Board and Director for Principles, Law and Relations with the Movement, and Mr. René Kosirnik, Head of the Legal Division and the Cooperation-Dissemination Division, together with Ms. Denise Plattner, Mr. Jacques Meurant and Dr. Pierre Perrin.

This year's Round Table was devoted to the single theme "The Evolution of the Right to Assistance".

After *Dr. Enrique Syquia*, President of the International Institute of Humanitarian Law, had welcomed the participants, *Professor Jovica Patrnogic*, Honorary President of the IIHL, introduced the Round Table's subject for discussion: he began by pointing out that in view of the new and large-scale suffering caused by recent conflicts, the responsibility of the international community for protecting and assisting victims, including that of the UN, UNHCR, the ICRC and humanitarian organizations as a whole, had considerably increased.

He then spoke of the right to humanitarian aid, the legal provisions in which it is enshrined and its application by the United Nations and

humanitarian organizations, stressing the shortcomings of the law governing internal conflicts and the political and military problems raised by the notion of sovereignty, especially the problem of having access to victims.

Convinced that humanitarian aid should always be carried out in conformity with the principles of humanity, neutrality and impartiality inherent in any type of humanitarian work, he invited the participants to examine new developments in the right to humanitarian assistance both as regards the form it took and how it was implemented. Prevention and coordination should not, he said, be overlooked.

Dr. Franck Verhagen, representative of H.E. Mr. Jan Eliasson, United Nations Under-Secretary-General for Humanitarian Affairs, referred to the complexity of issues connected with humanitarian aid and stressed the importance of coordinating international assistance during emergency situations. He hoped that the Round Table would find a way of reconciling the concept of national sovereignty with that of the right to assistance.

The meeting was honoured by the presence of *Mrs. Barbara Hendricks*, UNHCR Goodwill Ambassador and Honorary Member of the IIHL. Several experts put forward their opinions and suggestions concerning the problem of providing humanitarian assistance during conflict situations.

Summarized below are the reports submitted to the meeting, which were commended for their high-mindedness and the originality of their ideas.

Mr. Yves Sandoz, who opened the discussions, felt that the serious violations and irregularities observed during recent conflicts should be attributed less to the legal provisions themselves, which on the whole were satisfactory, than to their application. Experience had shown that international humanitarian law formed a well thought out and carefully balanced body of law. What needed reviewing were the practical arrangements governing relief operations and their coordination, together with the procedures for consultation and concerted action.

To his way of thinking, the main problem was that international humanitarian law enjoyed only a marginal place in international relations. The crux of the matter was to what extent world authorities were today really willing to subject themselves to a system based on international law. Despite this uncertainty, action had to be taken and courage and imagination shown, like the humanitarian organizations at present working in Somalia and the former Yugoslavia.

Another serious question came to mind: up to what point should those traditionally involved in humanitarian action expect States to

provide the necessary human, financial and logistic support to cater for humanitarian needs within the framework of the system of international humanitarian law, and at what stage should they make it plain that the system was no longer working, and force the community of States to face up to their responsibilities when a situation became too much for humanitarian organizations to handle.

The system of international humanitarian law was based on the consent of States and everything must be done to convince the parties in conflict and, where appropriate, to obtain their financial and logistic support. Mr. Sandoz acknowledged that, in dramatic situations endangering thousands or even millions of lives, armed intervention (within the framework provided for in the UN Charter) could not be ruled out.

He concluded by stating that international humanitarian law could not be used as an alibi to ignore the underlying problems: poverty, illiteracy, overpopulation and the disintegration of structures. Those questions must therefore be tackled as a matter of priority if we wanted to move towards solving them and improving respect for the law.

Mr. Hans Thoolen, Chief of the Centre for Documentation on Refugees, representing Mr. Leonardo Franco, Director of International Protection, referred to Security Council decisions taken during recent conflicts and which were gradually eroding the distinction between humanitarian assistance and humanitarian intervention. One of the crucial problems facing the United Nations was how to reconcile the need for more effective international measures with the principle of sovereignty. He cited Resolution 46/182 adopted by the United Nations General Assembly on 19 December 1991 entitled "Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations" and the guiding principles it contained on humanitarian assistance, i.e. the need for it to be provided in accordance with the principles of humanity, neutrality and impartiality. He went on to describe and assess UNHCR operations in several countries of the world to help refugees displaced both within and outside their national borders, pointing specifically to the establishment of "corridors of tranquillity" in Sudan and "zones of peace" in Angola, Ethiopia, Iraq and, most recently, in the former Yugoslavia.

He concluded by stressing that the establishment of a well-defined and internationally accepted right to assistance could be of major importance for the work of UNHCR.

Mr. Carlos Villa Durán, on behalf of Mr. Ibrahim Fall, Director of the Human Rights Centre, spoke of the right of access for humanitarian purposes during an armed conflict, and the problems involved.

To exercise this right required the consent of the State (which was expected to act in good faith). In that connection, he drew attention to the provisions under humanitarian law concerning the right to humanitarian assistance and the relevant resolutions adopted by the United Nations General Assembly and the Security Council. He also pointed out that the only possibility for having recourse to force under the United Nations system was to be found in Chapter VII of the Charter ("Action with respect to threats to the peace, breaches of the peace, and acts of aggression"). The precedents established in Bosnia-Herzegovina and Somalia demonstrated the Council's determination to resort to force, if necessary, to get aid through to the victims. He concluded by commenting that, although humanitarian assistance had long been provided for in humanitarian law, the conditions governing access to victims still needed to be improved in order to render such aid more effective.

On behalf of the International Federation of Red Cross and Red Crescent Societies, *Mr. Göran Bäckstrand*, Adviser, International Affairs, described how the effects of natural and man-made disasters were becoming ever more complex: they were bringing about the collapse of political and administrative structures, seriously disrupting economic and social activities and leading to violence, famine, epidemics and mass population displacements. Moreover the provision of aid was often seen as a political act.

As a result we faced, he said, a most serious humanitarian gap: since States were either curtailing their commitments for various reasons or requirements were in excess of agencies' means, there was a growing number of vulnerable groups which the humanitarian agencies were unable to assist.

To remedy this situation, the Federation was proposing a Code of Conduct to help non-governmental organizations set a base-line of ethical and behavioural standards for their work during disasters and to improve information-sharing and cooperation between humanitarian agencies. Stressing that the prime motivation for any humanitarian response was — and must continue to be — concern to alleviate human suffering, the Code laid down a series of obligations for non-governmental organizations and a series of commitments sought from disaster-affected governments (for instance, NGOs should be granted rapid access to victims). Also specified were commitments sought from donor countries and intergovernmental organizations.

Mr. Richard Perruchoud, representing the International Organization for Migration (IOM), spoke of the relationship between the right to humanitarian assistance and State sovereignty. He believed that the

main question was to determine what measures States, individually or collectively, were entitled to adopt *vis-à-vis* a State which no longer complied with its obligations. Could assistance be imposed upon a recalcitrant State, if necessary by force? The answer had to be in the affirmative since the purpose of supplying humanitarian assistance was to remedy a situation which threatened international peace and security.

He accordingly made the following points:

(1) Humanitarian assistance was not an end in itself; it could not be dissociated from other measures already or still to be taken to eradicate the cause of such grievous situations.

(2) Above all, humanitarian aid should not become an alibi for political inaction.

(3) Humanitarian assistance should not be counterproductive and undermine existing humanitarian law: for example, setting up humanitarian corridors might give combatants the impression or assurance that all kinds of excesses were permitted and/or lawful outside such corridors.

(4) Humanitarian assistance must henceforth be systematic, as opposed to the previous empirical approach, lest it become selective and attributed solely according to subjective and/or arbitrary criteria. The adoption by the San Remo Institute of a Code of Conduct (or minimum standards of behaviour) would be an initial step in that direction.

(5) For the international community the human being was and remained its foremost concern: the State and State sovereignty, international bodies and their mandates should not stand in the way of providing people with humanitarian assistance, but should facilitate it.

H.E. Dr. Mounir Zahran, Permanent Representative of Egypt to the Office of the United Nations at Geneva, delivered a paper on the subject "Humanitarian assistance and the maintenance of peace". He thought that the concept of peace maintenance as defined in the Charter of the United Nations had evolved in recent years and was tending to extend the peace-keeping mandate to cover the protection needs of relief convoys and any humanitarian assistance organized or coordinated by intergovernmental and non-governmental organizations. The purpose was to restore peace and facilitate the peaceful settlement of conflicts.

He went on to analyse the experience of the United Nations in the Bosnia-Herzegovina and Somalia conflicts. In conclusion he stated, like the United Nations Secretary-General, that massacres and torture

systematically carried out for racial, ethnic or religious reasons could no longer be tolerated and that the notion of sovereignty could no longer serve to shield certain acts committed by governments.

Mr. René Kosirnik, Head of the ICRC Legal Division, spoke about the implementation of humanitarian law in terms of humanitarian assistance.

He first drew attention to the legal provisions in the Geneva Conventions and their Additional Protocols which laid down the right to humanitarian assistance and defined the conditions governing it. If provided in conformity with IHL, such assistance, which must be humanitarian, impartial and non-discriminatory, could not be considered as interference; on the contrary, it was above any such reproach.

On the practical level, he deplored the serious breaches of IHL and the fact that the humanitarian organizations' efforts to help were continually being hampered. The way in which aid was being provided during the conflict in the former Yugoslavia and Somalia was untypical: where widespread anarchy and hazardous conditions prevailed the ICRC was prepared to accept a minimum of protection from the armed forces in order to reach the victims. However, such measures should be the exception rather than the rule.

He felt that those who played a major part in providing aid during armed conflicts should have a keener awareness of their role: it was up to States to respect and ensure respect for humanitarian law, to defend the emblem of the red cross and red crescent, to implement monitoring mechanisms and apply existing sanctions and to step up dissemination of that law, especially within the armed forces. In short, all the bodies involved should act in compliance with strict ethical rules (indeed according to the Code of Conduct proposed at the meeting).

Dr. Bernard Kouchner, French Minister for Health and Humanitarian Action, noted that concern for humanitarian problems was increasingly being expressed in United Nations texts and work. He quoted a series of resolutions adopted by UN bodies, ranging from Resolutions GA 43/129 and 43/131 of 8 December 1988 on the new international humanitarian order, which endorse the role of non-governmental organizations working alongside States (whose role is "primary") and the need to have free access to victims "in the event of natural disasters and similar emergency situations", to Resolution SC 771 (1992) of 13 August 1992 which reaffirms that all parties to the conflict in the former Yugoslavia are bound to comply with their obligations under international law and that persons who commit or order the commission "of grave breaches of the Geneva Conventions" are individually responsible.

Paying tribute to the work of UNHCR and the ICRC, he pointed to a change in attitude on the part of humanitarian organizations: they were becoming more actively involved and more forthright.

In his opinion, humanitarianism was an attitude which was motivating people more and more strongly, a form of action which reconciled them with their political responsibilities, and a policy — because humanitarianism was an integral part of diplomacy.

After describing how the duty to assist (making war less inhumane) and the right to assist (the right to life) had evolved, the speaker made a case for what he termed the *droit d'ingérence* — the right to intervene (preventing war), a right still to come which would be expressed by the international community's ability to intervene without prior consent from an oppressor State. He then went on to outline a policy of prevention through diplomacy whereby international instruments would be genuinely respected, dialogue would start before war actually broke out, and the international community could send in civilian observers wherever tension was running high.

Mr. Mohamed Ennaceur, Permanent Representative of the Republic of Tunisia to the United Nations, outlined two concepts: the integration of humanitarian issues into United Nations law, and State intervention in humanitarian activities. He began by stressing the United Nations' increasing interest in humanitarian work and pointed to the relationship thereby established between violations of the Geneva Conventions and threats to peace and international security; military intervention in implementing the right to humanitarian assistance had been a tangible expression of that relationship.

Apropos of State intervention in humanitarian activities, he believed that there was an inherent danger in the tendency to subject humanitarian work to political considerations: the right to assistance might find itself bound by conditions capable of suspending it, and humanitarian action, which is supposed to be universal, would become selective and would lose its credibility for donors and recipients alike.

He therefore thought that the United Nations system, the States party to the Geneva Conventions and the intergovernmental and non-governmental humanitarian organizations would in future have to allocate their respective roles in such a way that the right to humanitarian assistance could be given the necessary effect, while at the same time broadening its scope and ensuring that humanitarian action retained its specific character and its independence.

* * *

The following points emerged during the lively discussions initiated by each of these introductory reports:

— to be humanitarian, assistance must comply with the principles of humanity, impartiality and neutrality;

— military intervention, even for assistance purposes, is not an assistance operation within the meaning of international humanitarian law;

— apart from very exceptional cases, humanitarian relief missions must not be of a military nature;

— by virtue of international humanitarian law, sovereignty may not stand in the way of humanitarian action when imperative needs exist;

— the law governing international armed conflicts is well developed and quite sufficient; this is not the case for non-international armed conflicts and still less so for other situations which are not covered by the Conventions;

— guiding rules or a practical code of conduct for assistance operations would be useful.

At the closing session, Professor Patrnogic presented the conclusions of the work of the Round Table. The full text is published below.

THE EVOLUTION OF THE RIGHT TO ASSISTANCE

Closing statement

It was generally recognized that humanitarian assistance was becoming an issue of great importance because of the recent developments in many parts of the world which had given rise to grave human suffering. There was a great diversity in the situations which could arise and the specific cases of Iraq, Somalia and the former Yugoslavia were not necessarily typical.

Certain general conclusions could be drawn from the debate. It was the view of all participants that international humanitarian law regulates in detail all basic questions related to humanitarian assistance activities in international armed conflicts. There was, however, a need to ensure that the rules of inter-

national humanitarian law were fully and effectively applied in all armed conflict situations.

In non-international armed conflicts, there were few legal rules, and in mixed situations problems arose as to which rules were applicable.

In non-armed conflict situations, the international community was at present confronted with a lack of legal rules for regulating questions of humanitarian assistance.

There had however been a number of positive trends. It was now clearly recognized that human sufferings arising in situations of this kind were of concern to the international community. Moreover, serious violations of human rights could no longer be justified on the basis of state sovereignty.

Finally, when taking enforcement action under Chapter VII of the United Nations Charter, the Security Council had made specific arrangements for the provision of humanitarian assistance. These developments provided an encouraging basis for future efforts to develop international law in this area.

The role of the ICRC in the development and implementation of humanitarian assistance on the basis of international humanitarian law was recognized by all. This law could be interpreted as implying a right to humanitarian assistance. The various activities of UNHCR in providing or arranging for humanitarian assistance to refugees and internally displaced persons were noted with satisfaction. The impact of these activities on the further development of the law was also duly noted and encouraged.

Another important sphere of action which was thoroughly discussed was the role of the UN system, especially in the light of various recent experiences, such as those in Iraq, Somalia and the former Yugoslavia.

The new role of the UN reflected the increased responsibility of the international community in the field of humanitarian assistance. The creation of the Department for Humanitarian Affairs within the UN system was commended by all participants and it was expected that the Coordinator for Humanitarian Activities and his department would develop this increased role of the UN.

In connection with recent UN practice, the Round Table in particular debated whether this practice was in conformity with existing law, whether it was contrary to the law, or whether it contributed to the development of new legal rules. The general view was that it was in conformity with the existing law and also opened new horizons for its further development.

Since large-scale violations of human rights leading to serious human suffering had now become a matter of concern to the international community, the United Nations had been called upon to intervene for humanitarian purposes in various ways, if necessary with the use of force.

Some caution was voiced here. Even if resorted to for strictly humanitarian purposes, the use of force could lead to action contrary to established

humanitarian principles and thus create additional humanitarian problems. There was also a danger that force might be used for other purposes, notably those of a political character. The view was also expressed that the use of force to protect convoys transporting humanitarian assistance was in principle undesirable, but might have to be accepted for purely pragmatic humanitarian reasons.

The participants unanimously expressed the view that all humanitarian operations, including those involving the use of force, must be carried out in conformity with the principles inherent in any humanitarian activity, namely the principles of humanity, neutrality and impartiality.

The discussion, in particular as regards the role of the ICRC and the content of international humanitarian law on the one hand, and the new role of the UN and UNHCR on the other, gave rise to certain basic conclusions:

(1) victims in emergency situations should have the right to demand and to receive humanitarian assistance, in particular if their life, health or physical integrity are endangered;

(2) authorized international organizations should have access to the victims, the right to offer humanitarian assistance and to extend it;

(3) sovereignty remains the basis of international humanitarian assistance operations; however, in the event of severe human suffering and the existence of major obstacles to the provision of assistance, the international community should have the right, through its various bodies, to intervene to protect and assist the victims.

From the examination of these and related questions, it could be concluded that there were two "parallel" sets of legal mechanisms for dealing with the question of humanitarian assistance.

There was, on the one hand, a body of detailed law regulating the provision of humanitarian assistance in armed conflict situations. At the same time, the UN Security Council had taken action relating to humanitarian assistance in the context of enforcement measures under Chapter VII of the Charter. If however a situation calling for humanitarian assistance did not involve a "threat to international peace and security" and was not an armed conflict situation, there was at present no basis on which the UN could act, and General Assembly Resolutions, particularly Resolution No. 43/131 of 1988 concerning humanitarian assistance in the case of natural disasters, did not permit action going beyond the traditional notion of state sovereignty. It was important that future action by the UN in this area should not be of a piecemeal nature and should be harmonized with existing rules relating to armed conflict situations.

It was also recognized that there is a need to strengthen the UN disaster response system.

The role of the NGOs as independent bodies based on humanitarian principles was also emphasized. They should continue to be important factors in extending humanitarian assistance.

It was recognized that a need for humanitarian assistance implied that an abnormal situation had reached an advanced stage. It was therefore essential to address the causes of such situations with a view to taking appropriate preventive action. In this connection, the work of the meeting of experts on "Prevention", convened by the International Institute of Humanitarian Law from 18 to 20 June 1992 under the auspices of UNHCR, was of particular importance.

During the discussions, participants underlined the importance of increased dissemination of the rules of international humanitarian law, which should be drawn to the attention of various target groups as an element of prevention.

The participants unanimously agreed that the point of departure for further development of international law on humanitarian assistance should be the rules and principles which already existed, and that the rules relating to humanitarian assistance in armed conflict situations could provide an appropriate example. It was also felt that such a development of the law could be promoted within the existing legal framework. While it would of course be desirable to draw up an international convention defining specific legal criteria, this would not be realistic at the present stage.

In the meantime, it would be desirable as a first step to work out a body of guiding rules which could, if appropriate, be used in discussions for a future international instrument.

The participants of the Round Table expected that the International Institute of Humanitarian Law would continue to be concerned by this question.

The Institute had already prepared some draft guiding rules on the question of humanitarian assistance, including the right to humanitarian assistance. At the Round Table, a proposal was also made for a code of conduct for the use of non-governmental organizations in disaster relief.

On the basis of the reports presented to the Round Table, of several proposals made and the views expressed during the discussion, the Council of the Institute will examine the various proposed texts, introduce any necessary changes or adaptations and decide on how to proceed further with regard to the subject under consideration.

DECLARATIONS OF SUCCESSION TO THE GENEVA CONVENTIONS AND THEIR ADDITIONAL PROTOCOLS

- On 10 April 1992, ***Turkmenistan*** deposited with the Swiss Government a declaration of succession to the four Geneva Conventions of 12 August 1949 and the two Additional Protocols of 8 June 1977. These instruments were already applicable to the territory of Turkmenistan by virtue of their ratification by the Union of Soviet Socialist Republics on 10 May 1954 and 29 September 1989 respectively. The declaration contained no reference to the reservations and declaration previously made by the Soviet Union, nor was it accompanied by any further reservations or declarations.

Turkmenistan indicated that the declaration of succession took effect as from 26 December 1991, the date on which the Alma Ata Declaration creating the Commonwealth of Independent States was ratified.

Turkmenistan is the **171st** State to become party to the Geneva Conventions. It is the **114th** State party to Protocol I and the **104th** to Protocol II.

- On 5 May 1992, the ***Republic of Kazakhstan*** deposited with the Swiss Government a declaration of succession to the four Geneva Conventions of 12 August 1949 and the two Additional Protocols of 8 June 1977. These instruments were already applicable to the territory of Kazakhstan by virtue of their ratification by the Union of Soviet Socialist Republics on 10 May 1954 and 29 September 1989 respectively. The declaration contained no reference to the reservations and declaration previously made by the Soviet Union, nor was it accompanied by any new reservations or declarations.

The declaration of succession took effect as from 21 December 1991, the date on which the Alma Ata Declaration creating the Commonwealth of Independent States was signed.

Kazakhstan is the **172nd** State to become party to the Geneva Conventions. It is the **115th** State party to Protocol I and the **105th** to Protocol II.

- On 18 September 1992, the ***Republic of Kyrgyzstan*** deposited with the Swiss Government a declaration of succession to the four Geneva Conventions of 12 August 1949 and the two Additional Protocols of 8 June 1977. These instruments were already applicable to the territory of Kyrgyzstan by virtue of their ratification by the Union of Soviet Socialist Republics on 10 May 1954 and 29 September 1989 respectively. The declaration contained no reference to the reservations and declaration previously made by the Soviet Union, nor was it accompanied by any further reservations or declarations.

The Republic of Kyrgyzstan indicated that the declaration of succession took effect as from 21 December 1991, the date on which the Alma Ata Declaration creating the Commonwealth of Independent States was signed.

Kyrgyzstan is the **174th** State to become party to the Geneva Conventions. It is the **116th** State party to Protocol I and the **106th** to Protocol II.*

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* The ***Union of Myanmar***, which acceded to the four Geneva Conventions on 25 August 1992, is the **173rd** State party to those Conventions (see *International Review of the Red Cross*, No. 290, September-October 1992, p. 505).

Accession to the Protocols by the Republic of Zimbabwe

The Republic of Zimbabwe acceded on 19 October 1992 to the Protocols additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and Non-International Armed Conflicts (Protocol II), adopted in Geneva on 8 June 1977.

Pursuant to their provisions, the Protocols will come into force for the Republic of Zimbabwe on 19 April 1992.

This accession brings to **117** the number of States party to Protocol I and to **107** those party to Protocol II.

Declaration by Australia

On 23 September 1992 Australia made the following declaration regarding its recognition of the competence of the International Fact-Finding Commission:

"In accordance with Article 90, paragraph 2 (*a*), of Protocol I additional to the Geneva Conventions of 12 August 1949, Australia declares that it recognizes *ipso facto* and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International Fact-Finding Commission to enquire into allegations by such other Party".

Australia is the **31st** State to make the declaration regarding the Fact-Finding Commission.

Declaration by the Republic of Poland

On 2 October 1992 the Republic of Poland made the following declaration regarding its recognition of the competence of the International Fact-Finding Commission:

"In accordance with Article 90, paragraph 2 (*a*), of Protocole I additional to the Geneva Conventions of 12 August 1949, the Republic of Poland declares that it recognizes *ipso facto* and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International Fact-Finding Commission to enquire into allegations by such other Party".

The Republic of Poland is the **32nd** State to make the declaration regarding the Fact-Finding Commission.

PUBLICATIONS RECEIVED

- ***Revista Española de Derecho Militar*** (Spanish Military Law Review), Nos. 56-57, July-December 1990, January-July 1991, *Escuela Militar de Estudios Jurídicos* (Military School of Legal Studies), Ministry of Defence, Madrid.

This entire issue is devoted to the proposal to amend the Spanish Penal Code following Spain's ratification of Additional Protocols I and II of 1977. The study was undertaken by a Committee of Experts set up within the Spanish Red Cross Centre for Research on International Humanitarian Law, which is headed by Professor José Luis Fernández Flores.

After examining the obligation to incorporate and apply humanitarian law in Spanish law, the authors review earlier Spanish legislation on the suppression of violations. To remedy the shortcomings noted in the existing legislation, they propose that a new section be added to the Spanish Penal Code to cover offences committed against protected persons and property in situations of armed conflict and that the relevant provisions in the Military Penal Code be amended accordingly. The authors (Professor Manuel Pérez González, Chairman of the Committee, Mr. Javier Sánchez del Rio Sierra, Don José Luis Rodríguez-Villasante y Prieto, Mr. Fernando Pignatelli Meca, Mr. Francisco José Pulgarim de Miguel, members of the Centre, and Mr. Manuel Antón Ayllón, its secretary) base their proposal on an analysis of the laws of 27 countries relating to the suppression of breaches of humanitarian law. These provisions are published as an annex and constitute an invaluable source of reference material.

María Teresa Dutli

- Antonio Augusto Cançado Trindade (ed.), ***Derechos humanos, desarrollo sustentable y medio ambiente*** (Human rights, sustainable development and environment), Inter-American Institute of Human Rights / Inter-American Development Bank, San José de Costa Rica/Brasilia, 1992, 364 pp. (contributions in Spanish, Portuguese and English).

This book contains the papers presented at a seminar held in Brasilia in March 1992 under the auspices of the Inter-American Institute of Human Rights, the Inter-American Development Bank, the Friedrich Naumann Foundation and the International Development Agency. About fifty experts, most of them from Latin America, attended the event.

The seminar had two distinct objectives. The first was to conduct a general review of issues connected with development, human rights and environmental law, with particular reference to the relationship between these three concepts and their influence on each other. The second was to prepare an educational programme on the relationship between human rights and protection of the environment. To this end, the participants in the seminar submitted to the Inter-American Institute of Human Rights specific recommendations proposing that a model programme be set up in six Latin-American countries.

The work includes many original and substantial contributions. While some of them are rather theoretical, others afford a clear view of certain very real situations. These diverse approaches to the problem make for extremely interesting reading.

Antoine Bouvier

- Dieter Riesenberger, ***Das Internationale Rote Kreuz 1863-1977 — Für Humanität in Krieg und Frieden*** (The International Red Cross 1863-1977 — For humanity in war and peace), Van den Hoeck Collection, Göttingen, 1992, 300 pp.

This work, written by the Professor of Modern History at the University of Paderborn in Germany, describes the successive stages in the development of the International Red Cross and Red Crescent Movement from its beginnings up to the 1970s, placing them in their historical context.

In addition to documents in the public domain, the author had access to the archives of the German Red Cross and of the International Federation of Red Cross and Red Crescent Societies, and to German military archives. Several passages are devoted to the German Red Cross, in particular to its situation during and immediately after the Second World War.

Professor Riesenberger's book makes a significant contribution to knowledge of the Red Cross in the German-speaking parts of Europe.

Françoise Perret

ICRC AFRICA

ICRC Africa is a new brochure on ICRC activities in Africa. It follows on *ICRC in Africa — The early 80s* and takes a fresh look at ICRC operations on the continent.

The 72-page brochure is extensively illustrated with photos and graphs. It discusses the ICRC's main activities and concerns in Africa from 1986 to 1991 and in the years to come will undoubtedly serve as an important reference on ICRC work.

The brochure's purpose is to make the general public, governments and other decision-makers aware of the immense problems facing Africa at a time when war, famine and other disasters require a growing commitment on the part of the ICRC.

The author, Mr. David Millwood, is an external consultant who wrote the brochure for distribution to specific target groups: the ICRC's contacts in the field, the National Societies and the specialized press. It can be ordered in ***English, French, Portuguese and Arabic*** from the ICRC Public Information Division (COMREX/DIP) at a cost of 5 Swiss francs per copy.

THE FUNDAMENTAL PRINCIPLES OF THE RED CROSS AND RED CRESCENT

The ICRC has just published a booklet entitled ***The Fundamental Principles of the Red Cross and Red Crescent.***

This publication, which fills a gap, constitutes part of the ICRC's efforts to spread knowledge of the Fundamental Principles. In a simple and direct way the 32-page illustrated booklet presents each of the seven Fundamental Principles of the Red Cross and Red Crescent, describing how they came to be formulated and analysing the deep significance, practical scope and implementation of each one of them. Produced by several members of the ICRC staff (Ms. Sophie Graven, Ms Marion Harroff-Tavel, Ms. Huong T. Huynh and Mr. Jean-Luc Blondel), the booklet contains numerous examples of how the Principles govern the day-to-day activities of each of the components of the Movement.

The booklet (price: 5 Swiss francs) is available in ***English, French, German, Spanish*** and ***Arabic.*** Orders should be sent to the International Committee of the Red Cross (COMREX/DIP).

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ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

AFGHANISTAN (Democratic Republic of) — Afghan Red Crescent Society, Puli Hartan, *Kabul.*

ALBANIA (Republic of) — Albanian Red Cross, Rue Qamil Guranjaku No. 2, *Tirana.*

ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers.*

ANGOLA — Angola Red Cross, Av. Hoji Ya Henda 107, 2. andar, *Luanda.*

ANTIGUA AND BARBUDA — The Antigua and Barbuda Red Cross Society, P.O. Box 727, *St. John's,* Antigua, W.I.

ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, *1089 Buenos Aires.*

AUSTRALIA — Australian Red Cross Society, 206, Clarendon Street, *East Melbourne 3002.*

AUSTRIA — Austrian Red Cross, Wiedner Hauptstrasse 32, Postfach 39, A-1041, *Vienna 4.*

BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau.*

BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama.*

BANGLADESH — Bangladesh Red Crescent Society, 684-686, Bara Magh Bazar, Dhaka-1217, G.P.O. Box No. 579, *Dhaka.*

BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown.*

BELGIUM — Belgian Red Cross, 98, chaussée de Vleurgat, *1050 Brussels.*

BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City.*

BENIN (Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo.*

BOLIVIA — Bolivian Red Cross, Avenida Simón Bolivar, 1515, *La Paz.*

BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone.*

BRAZIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro.*

BULGARIA — Bulgarian Red Cross, 1, Boul. Biruzov, 1527 *Sofia.*

BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou.*

BURUNDI — Burundi Red Cross, rue du Marché 3, P.O. Box 324, *Bujumbura.*

CAMEROON — Cameroon Red Cross Society, rue Henri-Dunant, P.O.B 631, *Yaoundé.*

CANADA — The Canadian Red Cross Society, 1800 Alta Vista Drive, *Ottawa,* Ontario KIG 4J5.

CAPE VERDE (Republic of) — Red Cross of Cape Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia.*

CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui.*

CHAD — Red Cross of Chad, B.P. 449, *N'Djamena.*

CHILE — Chilean Red Cross, Avenida Santa Maria No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile.*

CHINA (People's Republic of) — Red Cross Society of China, 53, Ganmien Hutong, *Beijing.*

COLOMBIA — Colombian Red Cross Society, Avenida 68, No. 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*

CONGO (People's Republic of the) — Congolese Red Cross, place de la Paix, B.P. 4145, *Brazzaville.*

COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José.*

CÔTE D'IVOIRE — Red Cross Society of Côte d'Ivoire, B.P. 1244, *Abidjan.*

CUBA — Cuban Red Cross, Calle Prado 206, Colón y Trocadero, *Habana 1.*

THE CZECH AND SLOVAK FEDERAL REPUBLIC — Czechoslovak Red Cross, Thunovskà 18, *118 04 Prague 1.*

DENMARK — Danish Red Cross, Dag Hammarskjölds Allé 28, Postboks 2600, *2100 København Ø.*

DJIBOUTI — Red Crescent Society of Djibouti, B.P. 8, *Djibouti.*

DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau.*

DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo.*

ECUADOR — Ecuadorean Red Cross, calle de la Cruz Roja y Avenida Colombia, *Quito.*

EGYPT (Arab Republic of) — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo.*

EL SALVADOR — Salvadorean Red Cross Society, 17C. Pte y Av. Henri Dunant, *San Salvador,* Apartado Postal 2672.

ETHIOPIA — Ethiopian Red Cross Society, Ras Desta Damtew Avenue, *Addis Ababa.*

FIJI — Fiji Red Cross Society, 22 Gorrie Street, P.O. Box 569, *Suva.*

FINLAND — Finnish Red Cross, Tehtaankatu, 1 A. Box 168, *00141 Helsinki 14/15.*

FRANCE — French Red Cross, 1, place Henry-Dunant, F-75384 *Paris,* CEDEX 08.

GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul.*

GERMANY — German Red Cross, Friedrich-Erbert-Allee 71, *5300, Bonn 1,* Postfach 1460 (D.B.R.).

GHANA — Ghana Red Cross Society, National Headquarters, Ministries Annex A3, P.O. Box 835, *Accra.*

GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 10672.*

GRENADA — Grenada Red Cross Society, P.O. Box 221, *St George's.*

GUATEMALA — Guatemalan Red Cross, 3.ª Calle 8-40, Zona 1, *Ciudad de Guatemala.*

GUINEA — Red Cross Society of Guinea, P.O. Box 376, *Conakry.*

GUINEA-BISSAU — Red Cross Society of Guinea-Bissau, rua Justino Lopes N.º 22-B, *Bissau.*

GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown.*

HAITI — Haitian National Red Cross Society, place des Nations Unies, (Bicentenaire), B.P. 1337, *Port-au-Prince.*

HONDURAS — Honduran Red Cross, 7.ª Calle, 1.ª y 2.ª Avenidas, *Comayagüela D.M.*

HUNGARY (The Republic of) — Hungarian Red Cross, V. Arany János utca, 31, *Budapest 1367*. Mail Add.: *1367 Budapest 5I. Pf. 121.*

ICELAND — Icelandic Red Cross, Raudararstigur 18, 105 *Reykjavik*.

INDIA — Indian Red Cross Society, 1, Red Cross Road, *New Delhi 110001*.

INDONESIA — Indonesian Red Cross Society, Il Jend Gatot subroto Kar. 96, Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.

IRAN — The Red Crescent Society of the Islamic Republic of Iran, Avenue Ostad Nejatollahi, *Tehran*.

IRAQ — Iraqi Red Crescent Society, Mu'ari Street, Mansour, *Baghdad*.

IRELAND — Irish Red Cross Society, 16, Merrion Square, *Dublin 2*.

ITALY — Italian Red Cross, 12, via Toscana, 00187 *Rome*.

JAMAICA — The Jamaica Red Cross Society, 76, Amold Road, *Kingston 5*.

JAPAN — The Japanese Red Cross Society, 1-3, Shiba-Daimon, I-chome, Minato-Ku, *Tokyo 105*.

JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Amman*.

KENYA — Kenya Red Cross Society, P.O. Box 40712, *Nairobi*.

KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, Ryonhwa 1, Central District, *Pyongyang*.

KOREA (Republic of) — The Republic of Korea National Red Cross, 32-3Ka, Nam San Dong, Choong-Ku, *Seoul 100-043*.

KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359 Safat, *Kuwait*.

LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, B.P. 650, *Vientiane*.

LATVIA — Latvian Red Cross Society, 28, Skolas Street, 226 300 *Riga*.

LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.

LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.

LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, 1000 *Monrovia 20*, West Africa.

LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.

LIECHTENSTEIN — Liechtenstein Red Cross, Heiligkreuz, 9490 *Vaduz*.

LITHUANIA — Lithuanian Red Cross Society, Gedimino Ave 3a, 232 600 *Vilnius*.

LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, B.P. 404, *Luxembourg 2*.

MADAGASCAR — Malagasy Red Cross Society, 1, rue Patrice Lumumba, *Antananarivo*.

MALAWI — Malawi Red Cross Society, Conforzi Road, P.O. Box 983, *Lilongwe*.

MALAYSIA — Malaysian Red Crescent Society, JKR 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 55000*.

MALI — Mali Red Cross, B.P. 280, *Bamako*.

MAURITANIA — Mauritanian Red Crescent, B.P. 344, avenue Gamal Abdel Nasser, *Nouakchott*.

MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.

MEXICO — Mexican Red Cross, Calle Luis Vives 200, Col. Polanco, *México 10, Z.P. 11510*.

MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.

MONGOLIA — Red Cross Society of Mongolia, Central Post Office, Post Box 537, *Ulan Bator*.

MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.

MOZAMBIQUE — Mozambique Red Cross Society, Caixa Postal 2986, *Maputo*.

MYANMAR (The Union of) — Myanmar Red Cross Society, 42, Strand Road, *Yangon*.

NEPAL — Nepal Red Cross Society, Tahachal Kalimati, P.B. 217, *Kathmandu*.

NETHERLANDS — The Netherlands Red Cross, P.O. Box 28120, *2502 KC The Hague*.

NEW ZEALAND — The New Zealand Red Cross Society, Red Cross House, 14 Hill Street, *Wellington 1* (P.O. Box 12-140, *Wellington Thorndon*).

NICARAGUA — Nicaraguan Red Cross, Apartado 3279, *Managua D.N*.

NIGER — Red Cross Society of Niger, B.P. 11386, *Niamey*.

NIGERIA — Nigerian Red Cross Society, 11 Eko Akete Close, off St. Gregory's Rd., P.O. Box 764, *Lagos*.

NORWAY — Norwegian Red Cross, P.O. Box 6875, St. Olavspl. N-0130 *Oslo 1*.

PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.

PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Panamá 1*.

PAPUA NEW GUINEA — Papua New Guinea Red Cross Society, P.O. Box 6545, *Boroko*.

PARAGUAY — Paraguayan Red Cross, Brasil 216, esq. José Berges, *Asunción*.

PERU — Peruvian Red Cross, Av. Caminos del Inca y Av. Nazarenas, Urb. Las Gardenias — Surco — Lima (33) Apartado 1534, *Lima 100*.

PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.

POLAND (The Republic of) — Polish Red Cross, Mokotowska 14, 00-950 *Warsaw*.

PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, 1 a 5, 1293 *Lisbon*.

QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.

ROMANIA — Red Cross of Romania, Strada Biserica Amzei, 29, *Bucarest*.

RUSSIAN FEDERATION — Red Cross Society of the Russian Federation, Kuznetski Most 18/7, 103031 *Moscow* GSP-3.

RWANDA — Rwandese Red Cross, B.P. 425, *Kigali*.

SAINT KITTS AND NEVIS — Saint Kitts and Nevis Red Cross Society, Red Cross House, Horsford Road, *Basseterre*, St. Kitts, W. 1.

SAINT LUCIA — Saint Lucia Red Cross, P.O. Box 271, *Castries St. Lucia*, W. I.

SAINT VINCENT AND THE GRENADINES — Saint Vincent and the Grenadines Red Cross Society, P.O. Box 431. *Kingstown*.

SAN MARINO — Red Cross of San Marino, Comité central, *San Marino*.

SAO TOME AND PRINCIPE — Sao Tome and Principe Red Cross, C.P. 96, *São Tomé*.

SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh 11129*.

SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.

SIERRA LEONE — Sierra Leone Red Cross Society, 6, Liverpool Street, P.O.B. 427, *Freetown*.

SINGAPORE — Singapore Red Cross Society, Red Cross House 15, Penang Lane, *Singapore 0923.*

SOLOMON ISLANDS — The Solomon Islands Red Cross Society, P.O. Box 187, *Honiara.*

SOMALIA (Democratic Republic of) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu.*

SOUTH AFRICA — The South African Red Cross Society, Essanby House 6th Floor, 175 Jeppe Street, P.O.B. 8726, *Johannesburg 2000.*

SPAIN — Spanish Red Cross, Rafael Villa, s/n, (Vuelta Ginés Navarro), El Plantío, 28023 *Madrid.*

SRI LANKA (Dem. Soc. Rep. of) — The Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7.*

SUDAN (The Republic of the) — The Sudanese Red Crescent, P.O. Box 235, *Khartoum.*

SURINAME — Suriname Red Cross, Gravenberchstraat 2, Postbus 2919, *Paramaribo.*

SWAZILAND — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane.*

SWEDEN — Swedish Red Cross, Box 27 316, *102-54 Stockholm.*

SWITZERLAND — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, *3001 Berne.*

SYRIAN ARAB REPUBLIC — Syrian Arab Red Crescent, Bd Mahdi Ben Barake, *Damascus.*

TANZANIA — Tanzania Red Cross National Society, Upanga Road, P.O.B. 1133, *Dar es Salaam.*

THAILAND — The Thai Red Cross Society, Paribatra Building, Central Bureau, Rama IV Road, *Bangkok 10330.*

TOGO — Togolese Red Cross, 51, rue Boko Soga, P.O. Box 655, *Lomé.*

TONGA — Tonga Red Cross Society, P.O. Box 456, *Nuku' Alofa, South West Pacific.*

TRINIDAD AND TOBAGO — The Trinidad and Tobago Red Cross Society, P.O. Box 357, *Port of Spain,* Trinidad, West Indies.

TUNISIA — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis 1000.*

TURKEY — The Turkish Red Crescent Society, Genel Baskanligi, Karanfil Sokak No. 7, 06650 Kizilay-*Ankara.*

UGANDA — The Uganda Red Cross Society, Plot 97, Buganda Road, P.O. Box 494, *Kampala.*

UNITED ARAB EMIRATES — The Red Crescent Society of the United Arab Emirates, P.O. Box No. 3324, *Abu Dhabi.*

UNITED KINGDOM — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.IX. 7EJ.*

USA — American Red Cross, 17th and D Streets, N.W., *Washington, D.C. 20006.*

URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo.*

U.S.S.R. — The Alliance of Red Cross and Red Crescent Societies of the U.S.S.R., I, Tcheremushkinskii proezd 5, *Moscow, 117036.*

VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado, 3185, *Caracas 1010.*

VIET NAM (Socialist Republic of) — Red Cross of Viet Nam, 68, rue Ba-Trièu, *Hanoi.*

WESTERN SAMOA — Western Samoa Red Cross Society, P.O. Box 1616, *Apia.*

YEMEN (Republic of) — Yemeni Red Crescent Society, P.O. Box 1257, *Sana'a.*

YUGOSLAVIA — Red Cross of Yugoslavia, Simina ulica broj 19, *11000 Belgrade.*

ZAIRE — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, Zone de la Gombe, B.P. 1712, *Kinshasa.*

ZAMBIA — Zambia Red Cross Society, P.O. Box 50 001, 2837 Saddam Hussein Boulevard, Longacres, *Lusaka.*

ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare.*

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